

UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

\* \* \* \* \*  
IN RE THE EXTRADITION OF \* CASE NUMBER 7:12-MC-00039  
ALMAZ NEZIROVIC, \* SEPTEMBER 7, 2012 9:15 A.M.  
\* EXTRADITION PROCEEDING  
\* VOLUME I OF I  
\* \* \* \* \*

BEFORE THE HONORABLE ROBERT S. BALLOU  
UNITED STATES MAGISTRATE JUDGE  
WESTERN DISTRICT OF VIRGINIA

APPEARANCES:

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1 (Court convened at 9:15 A.M.)

2 THE COURT: All right. Good morning.

3 MR. HEAPHY: Good morning, Your Honor.

4 MS. WRIGHT: Good morning.

5 THE COURT: Let's go ahead and call the case, and  
6 then we'll get the interpreters sworn in and proceed.

7 THE CLERK: This is *In the Matter of the Extradition*  
8 *of Almaz Nezirovic*, Action Number 7:12-MC-00039.

9 THE COURT: All right. The record reflects the  
10 government is present by its counsel; the defendant, likewise,  
11 is present by counsel. We have two interpreters for  
12 Mr. Nezirovic this morning.

13 Y'all have not been sworn; is that correct?

14 THE INTERPRETER: Not yet.

15 THE COURT: All right. Let's go ahead and get the  
16 interpreters sworn.

17 THE CLERK: If you will raise your right hand,  
18 please.

19 (Interpreters are sworn.)

20 THE COURT: All right, Mr. Nezirovic, good morning.

21 MR. NEZIROVIC: (In English) Good morning.

22 THE COURT: My name is Robert Ballou. We're here  
23 today in connection with the extradition proceeding that's  
24 been initiated here. You have with you two interpreters that  
25 are going to switch back and forth during the course of

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1 today's events. I want to make sure that you're able to  
2 understand me before we get going this morning, with the  
3 assistance of the interpreter.

4 Are you able to understand me?

5 MR. NEZIROVIC: (In English) Yeah, I understand.

6 THE COURT: If at any point in time something happens  
7 that you don't understand from a language standpoint, let me  
8 know, let Ms. Spence know, and we'll back up and we'll make  
9 sure that you understand everything that's occurred. If at  
10 any point in time you need to ask Ms. Spence a question, then  
11 you go ahead and do that. And we'll make sure you understand  
12 everything that's occurred as we go forward today.

13 Do you understand?

14 MR. NEZIROVIC: (In English) Okay.

15 THE COURT: Now, I believe the first thing we need to  
16 do is to take up expected objections as to expert witnesses  
17 and other fact witnesses.

18 Is that right, Mr. Heaphy?

19 MR. HEAPHY: Yes, Your Honor.

20 THE COURT: Ms. Spence, do you want to go ahead and  
21 just proffer the expected testimony on behalf of the  
22 witnesses?

23 MS. SPENCE: Yes, Your Honor.

24 THE COURT: Good morning.

25 MS. SPENCE: Good morning. As an expert witness,

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1 Mr. Nezirovic intends to call Dr. Carl Dahlman.

2 THE COURT: All right.

3 MS. SPENCE: And he will provide a brief history of  
4 the Balkans, particularly from the formation of Yugoslavia to  
5 the present, with emphases on the geopolitical factors leading  
6 to the dissolution of Yugoslavia. He will provide an in-depth  
7 analysis of the geopolitical factors that lead to the war,  
8 including the political ambitions of Serbia's leader,  
9 Milosevic; the use of propaganda and manipulation of history  
10 to create and intensify national sentiments; and the extensive  
11 secretive Serbian planning for the war long before the first  
12 shot was fired.

13 He will explain the creation and growth of the  
14 Serbian democratic party in Bosnia; the party's creation of  
15 regional associations; clandestine military training; creation  
16 of crisis staffs; recruiting and coordinating police chiefs,  
17 paramilitary groups, and the former Yugoslavian army; all  
18 preparing to violently challenge the government of Bosnia, and  
19 to refuse to recognize or comply with the laws of the Bosnian  
20 government.

21 He will explain the term "ethnic cleansing,"  
22 describing how and why it was carried out in Bosnia, and how  
23 the violence perpetrated by those on the Serbian Nationalists'  
24 side perpetuated and increased the extreme nationalism of all  
25 parties in the region and basically destroying the fabric of

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1 the one-time multicultural tolerant state of Bosnia.

2 To help the Court understand the context in which the  
3 alleged offenses supposedly occurred, which is necessary for  
4 evaluation of the political offense question, Dr. Dahlman will  
5 describe the number and nature of war crimes committed by  
6 Serbs and Croats during war. He will explain the  
7 development of the International Criminal Tribunal of  
8 Yugoslavia, its purpose, and the procedures developed for  
9 initiating war crimes prosecutions on a more local level.

10 He will explain which groups controlled the territory  
11 of Doboj and Derventa at different times, and discuss the  
12 difference between being in control of a territory versus  
13 being the legitimate government for the territory, and, based  
14 on this, will opine that the report filed on January 12th,  
15 1993, was not an action by the government of Bosnia at the  
16 time but of the rebels who did not recognize the government of  
17 Bosnia.

18 He will explain the international and negotiated  
19 Dayton Agreement which ended the war, or at least the  
20 large-scale fighting, and explain how the war and the Dayton  
21 Agreement changed the demographic and political makeup of  
22 Bosnia, particularly in Doboj, where this prosecution is  
23 pending, and Derventa, where Nezirovic previously lived and  
24 these events allegedly occurred.

25 He will further explain and provide examples of the

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1 polarization that continued to exist between Serbs, Croats,  
2 and Bosniaks after the war, the more subtle forms of political  
3 persecution, including discrimination in employment and  
4 provision of services, continued dissemination of false  
5 propaganda, and other efforts to maintain the status quo of  
6 wartime leaders who wished to remain in political power in  
7 postwar Bosnia.

8           He will describe how the local government in Dobo  
9 blatantly disregarded laws and the Dayton Agreement  
10 provisions, and describe a culture of political corruption  
11 that was rampant in Bosnia and Dobo, including in the court  
12 system, throughout the late 1990s and into the latter part of  
13 the first decade of the 21st Century.

14           And finally, he will discuss the inconsistent and  
15 selective handling of war crime prosecutions on the Republic  
16 of Srpska side of Bosnia, including inconsistencies in the  
17 number and types of charges brought against Serbs versus  
18 non-Serbs, the fear of prosecuting prominent Serbs in the  
19 community for extremely serious war crimes, while spending  
20 scarce resources to fund prosecution of non-Serbs for  
21 relatively less serious war crimes.

22           And all of this testimony is necessary to give the  
23 Court the contextual information essential for determining  
24 whether the alleged crimes constitute political offenses and,  
25 therefore, exempt from extradition under the treaty.

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1 THE COURT: All right. Let me just make sure -- let  
2 me summarize it to make sure I have it right.

3 I kind of have it in three different areas: One is  
4 an overall history of the geopolitical landscape in the area,  
5 both leading up to the formation of Yugoslavia, the  
6 dissolution of Yugoslavia, and then the present status of the  
7 various different countries in the area.

8 Secondly, the context of the war crime offenses and  
9 things that occurred during the Bosnian conflict in the early  
10 '90s.

11 And then the third is the development of, I guess,  
12 the political system, if you will, and after the war up to  
13 today, and for lack of a better term, the selective  
14 prosecution of crimes of this nature in Bosnia.

15 Is that a fair way to summarize it, in those three  
16 areas?

17 MS. SPENCE: Yes.

18 THE COURT: Okay. While we're here, and before we  
19 get government's objections, go ahead and summarize -- proffer  
20 the evidence of the fact witnesses that you have as well.

21 MS. SPENCE: Alan Pelesic will be testifying. He  
22 lived in Cardak, which was a subdivision of Derventa, at the  
23 time the hostilities started. And he will testify about the  
24 bombing of his neighborhood by his own neighbors, and the  
25 atrocities that were committed in early April 1992 in his



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1 neighborhood, while he and his family hid in the basement of a  
2 neighbor's apartment, even after the neighbor had been killed.

3 And he will also describe what they witnessed from  
4 their hiding point, of the atrocities that were being  
5 committed against their Muslim neighbors and others who  
6 happened to have the misfortune of coming through the area on  
7 their way to the nearby hospital.

8 THE COURT: Is this the same neighborhood where  
9 Mr. Nezirovic lived at that time?

10 MS. SPENCE: No. It is the neighborhood where the  
11 complaining witnesses, who claimed that they were civilians,  
12 lived.

13 THE COURT: All right.

14 MS. SPENCE: And at least one of the identified named  
15 complaining witnesses who alleged to be a civilian, that  
16 evidence the next factual witness will dispute. And that  
17 witness would be Maid Sipic --

18 THE COURT: Spell that so we have it, if you can.

19 MS. SPENCE: Yes. The first name is M-A-I-D. Last  
20 name is S-I-P-I-C.

21 Who on April the 18th was en route to taking a  
22 passenger to the hospital when he came up on a construction  
23 vehicle that was barricading the road at Cardak, and suddenly  
24 shots were fired. The vehicle -- I can't remember now if it  
25 was the driver or the passenger, but sitting next to him, was

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1 killed by that gunfire, right next to him. And he was shot  
2 and wounded and got out and tried to hide but was apprehended  
3 by Serbian nationalists and detained. He was taken to a home  
4 in that Cardak neighborhood that day, and there was accosted  
5 by Dr. Stajcic, one of the complaining witnesses in the --

6 THE COURT: In the government's evidence.

7 MS. SPENCE: -- in the government's evidence, who  
8 beat him and put a gun in his mouth and threatened to blow his  
9 head off rather than providing him any medical care for his  
10 gunshot wounds. He was subsequently detained in the Banja  
11 Luka camp until he was released in June as part of a prisoner  
12 exchange.

13 He will also testify that he is very concerned for  
14 the safety of family members still living in Bosnia as a  
15 result of his decision to come forward and testify today.

16 Ibrahim Pelesic -- that's P-E-L-E-S-I-C, the father  
17 of Alan -- will testify also. He won't duplicate his son's  
18 testimony, although he was present at the same time and saw  
19 much of the same things. He worked for a month as a  
20 journalist for Radio Derventa immediately after the events of  
21 April 18th, and in his capacity as a journalist there filmed a  
22 lot of the destruction and bombing that was going on.

23 And he will identify -- he has actually done several  
24 hours of videos that included interviews of people and  
25 everything. But I'm introducing seven short clips, the

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1 longest one being two minutes and five seconds, of just the  
2 bombing, the destruction itself, so as not to introduce any  
3 hearsay or anything. But this is film footage he took himself  
4 to describe the conditions that were present in early to mid  
5 April in Derventa, where the offenses occurred.

6 And he will also talk about his brother having  
7 expressed concerns to him about his being willing to testify  
8 in this case, because he fears reprisals in Bosnia.

9 THE COURT: All right. And the purpose of the fact  
10 witnesses is to establish what?

11 MS. SPENCE: To establish the context in which the  
12 events and the alleged crimes would have occurred, because  
13 that's necessary for a true evaluation of whether they rise to  
14 the level of crimes against humanity that would put them  
15 outside of any political offense exception, or whether in fact  
16 this was truly a political offense that occurred during a very  
17 violent uprising and clearly incidental to it.

18 THE COURT: And I don't know whether -- is this going  
19 to the issue of whether there's sufficient probable cause  
20 stated by the government or as to whether the alleged  
21 actions -- and I know you're not agreeing that the acts  
22 occurred -- but that the alleged offenses, if they did occur,  
23 whether they constitute political acts?

24 MS. SPENCE: Yes. It goes only to whether they  
25 constitute political offenses.

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1 THE COURT: All right. Let me hear the government's  
2 objections, Mr. Heaphy.

3 MR. HEAPHY: Thank you, Your Honor. And good  
4 morning.

5 THE COURT: Good morning.

6 MR. HEAPHY: We filed a pleading on this issue with  
7 respect to the political offense exception, and Ms. Spence has  
8 helpfully now proffered more specifically what the relevance,  
9 suggested relevance, of this evidence is. And it is all  
10 connected, as Ms. Spence just said, to the political offense  
11 exception.

12 And that again, Your Honor, is the basis for our  
13 objection, because on the facts of this case, which again the  
14 Court accepts and Ms. Spence cannot validly contradict, only  
15 explain, there can be no political offense exception.

16 The acts alleged by the Bosnians in the materials  
17 submitted to the Court demonstrate persistent acts of torture  
18 against civilians, not combatants, not soldiers, not acts  
19 committed on the battlefield, but rather acts committed  
20 against Serbs, civilians who were rounded up and put in this  
21 camp and then subjected to degrading and inhuman treatment.

22 The facts, as detailed, explicitly indicate an ethnic  
23 bias, a bias against Serbs. Some of the acts were actually  
24 committed against parts of the body of the Serbs that had  
25 religious significance, this three-fingered sign. There were

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1 statements made by Mr. Nezirovic about the fact that this  
2 motivation for his violence was because of the Serb ethnicity.

3 THE COURT: Let me ask you this, to make sure I put  
4 it in the right context. Understanding the limited nature of  
5 the hearing as it relates to the defendant's ability to  
6 challenge probable cause and challenge the evidence for  
7 purposes of probable cause, but the defendant, Mr. Nezirovic,  
8 does carry the burden as it relates to establishing the  
9 political exception?

10 MR. HEAPHY: Exactly.

11 THE COURT: And as I read it, it's a two-step  
12 inquiry: Is there a political conflict that's ongoing? And I  
13 think that's the first part that I believe the expert is  
14 expected to testify to and set in historical context so we can  
15 understand that. And I think to a certain extent, the fact  
16 witnesses will touch upon that as well.

17 And the second part is then the actions, the alleged  
18 actions of Mr. Nezirovic in furtherance of his side of the  
19 political conflict.

20 MR. HEAPHY: Right.

21 THE COURT: What is the evidentiary -- one, the  
22 evidentiary standard that Mr. Nezirovic has? And doesn't he  
23 get more leeway in putting on evidence than he does with  
24 respect to challenging probable cause?

25 MR. HEAPHY: He has to, Your Honor, put on evidence

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1 that is relevant, that goes specifically to an issue that is  
2 at stake in the proceeding.

3 We cited in our pleading to the *Marzook* case and  
4 other cases which have explicitly held that the political --  
5 it is proper for a magistrate judge to restrict expert  
6 testimony if a valid political offense exception cannot be  
7 established on the facts.

8 THE COURT: And both *Marzook* and I think the  
9 *Demjanjuk* case as well, the primary ones that have held that  
10 there are certain acts that are just simply beyond the pale.

11 MR. HEAPHY: Exactly.

12 THE COURT: And *Demjanjuk* dealt with Treblinka, and  
13 *Marzook* was --

14 MR. HEAPHY: The bombing, terrorist bombing of a bus.

15 THE COURT: That's right. And those relate to  
16 civilians on the streets -- or civilians that were taken off  
17 the streets and were murdered, killed.

18 MR. HEAPHY: Right.

19 THE COURT: And my point is, doesn't Mr. Nezirovic  
20 get the ability to be able to try to distinguish these  
21 allegations and where he was from the cases that have said  
22 there's certain actions that are beyond the pale, whether mass  
23 murders and indiscriminate acts that occur during civilian  
24 life?

25 MR. HEAPHY: Our first argument, Your Honor, is that

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1 this case is exactly like *Marzook*. The acts alleged here,  
2 which, again, the Court essentially takes as established --  
3 Ms. Spence cannot rebut them, can only explain them -- put  
4 this in the category of those offenses, terrorist offenses,  
5 that are beyond the pale, are crimes against humanity.

6 The degrading and inhuman treatment against civilians, as  
7 established by the materials we submitted, remove this on the  
8 papers from the realm of the political. The fact that there's  
9 a political context is not in dispute. Obviously, there was a  
10 lot going on in Bosnia at the time this did occur, in the  
11 midst. But the case law is legion that that context does not  
12 provide a license for individuals to persecute, to torture, to  
13 do things that don't forward the cause but rather are  
14 ethnically biased acts of hatred, and that's what we have here  
15 on these facts.

16 So under the *Marzook* line, we think, Your Honor, that  
17 there just is no basis here for a political offense finding,  
18 and that gives the Court the reason to exclude the testimony.

19 But the second reason, Your Honor, and that is the line  
20 of cases that follow *Gallina v. Fraser*, are that there's  
21 really no connection between the proffered evidence and the  
22 allegations of what happened with respect to this witness and  
23 these facts. Okay.

24 *Gallina v. Fraser* was a case in which the fugitive sought  
25 to subpoena a witness to testify generally about the Sicilian

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1 separatist movement. The fugitive was a participant in a  
2 political conflict in Sicily. The Court refused to issue a  
3 subpoena in that case because there was no connection between  
4 the proffered expert testimony of the Sicilian separatist  
5 movement and that fugitive and what occurred.

6 Very same thing happening here. We have an academic who  
7 will give us a history lesson about the Bosnian conflict, all  
8 of which, again, I think the Court can take judicial notice  
9 there was a political context here. But he doesn't connect  
10 that in any way to Mr. Nezirovic, what occurred in the Rabic  
11 camp, what he did. He simply has no knowledge of that, and  
12 from the proffer, neither do the fact witnesses. There is no  
13 sense that they were present at the Rabic camp.

14 So there's a disconnect between the proffer and this  
15 history, which is compelling and awful. But it's also a  
16 potential sideshow, Your Honor. And the cases, again, make  
17 clear that we are not here to relitigate the Bosnian conflict,  
18 and the Court has to be careful and focus its inquiry on  
19 what's at stake.

20 There can be no political offense exception on the fact  
21 of this record. And again, if the proffered evidence does not  
22 in any way connect this defendant or this fugitive and these  
23 acts to that political context, there is a disconnect. So for  
24 both those reasons, Your Honor, we don't believe that this  
25 evidence is relevant.



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1 And then the only other thing I would say is that we have  
2 cited in our brief the general authority that the fugitive's  
3 ability to present evidence is highly circumscribed; he cannot  
4 contradict the government's evidence, only explain it; he  
5 cannot impeach witnesses' credibility. There was a suggestion  
6 by Ms. Spence at one point, I believe, that one of the  
7 witnesses --

8 THE COURT: Civilian.

9 MR. HEAPHY: -- one of the civilians had some  
10 evidence about Dr. Stajcic, who was one of the complaining  
11 witnesses; again, plainly improper under the statute.  
12 Challenging the credibility of a complaining witness in the  
13 Bosnian materials is just, under the case law, not proper.  
14 The Court has to accept that. Ms. Spence can explain it but  
15 not rebut or contradict it.

16 There's also something called the rule of non-inquiry  
17 which applies in extradition. In the *Martin v. the Warden of*  
18 *Atlanta Penitentiary* case --

19 THE COURT: For the after-war events?

20 MR. HEAPHY: Well, no. It's just the rule of  
21 non-inquiry precludes extradition magistrates from assessing  
22 the investigative, judicial, and penal systems of foreign  
23 nations when reviewing an extradition request.

24 THE COURT: That's what I meant, from the after-war  
25 events with respect to selected prosecution --

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1 MR. HEAPHY: Even before the political -- the rule of  
2 non-inquiry does not allow this Court to delve into and  
3 evaluate whether or not there's a fair process during the  
4 conflict, during the war crimes allegations and after. Those  
5 are matters that are left for the executive, or left for the  
6 Secretary of State. All of the information proffered by  
7 Ms. Spence is very, very compelling proof to the Secretary of  
8 State that there are other reasons why there should not be an  
9 extradition.

10 But, again, this Court, under that rule of  
11 non-inquiry, has to focus its inquiry on very specific things.  
12 And if you accept the invitation to dive into whether or not  
13 the Bosnian process was or was not fair, that is really beyond  
14 the scope of this Court's inquiry. So for the rule of  
15 non-inquiry established clearly in that *Martin* case and  
16 others, for the Court to follow that, you would have to  
17 exclude this evidence.

18 So, Your Honor, for all those reasons, we think this  
19 is an invitation to get into the realm that's appropriately  
20 left for the Secretary, to develop evidence that's just, while  
21 compelling and interesting, not relevant to the political  
22 offense exception, or which can't be established, or any other  
23 element that's before the Court. And for that reason, we  
24 would ask you to exclude it.

25 THE COURT: All right. Thank you, Mr. Heaphy.

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1 Ms. Spence. And break it down for me, Ms. Spence.  
2 First of all, deal with what Mr. Heaphy spoke about, and that  
3 is whether there is a nexus between the proffered testimony of  
4 Dr. Dahlman and the alleged acts of Mr. Nezirovic, and then  
5 also any nexus between the proffered testimony of the fact  
6 witnesses as it relates to Mr. Nezirovic.

7 MS. SPENCE: Yes, sir. I might also add that  
8 Mr. Nezirovic will briefly testify that when he was employed  
9 at the Rabic detention facility as a guard, he was not on the  
10 front lines, and that it was his understanding that everyone  
11 brought into that prison was in fact a combatant. Whether or  
12 not that is true, it goes to his state of mind, which is  
13 relevant to whether or not he was acting incident to the  
14 political events going on.

15 In particular, his knowledge of other events  
16 committed by Dr. Stajcic, including incidents that resulted in  
17 the death of a close friend of his, are relevant in  
18 determining whether this motivation was related to this  
19 conflict, whether there was that nexus.

20 I would also submit that the evidence from the expert  
21 regarding what was happening -- and Dr. Dahlman has been to  
22 Bosnia and Doboij on several occasions for extended periods of  
23 time, researching the things that happened there -- it is all  
24 relevant to determining the context necessary to establish  
25 whether or not these alleged crimes, as the Court has already

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1 noted, although certainly not nice actions, are far different  
2 from the bombing of a bus of civilians or pulling up in a car  
3 to an apartment complex and shooting down upon civilians, or  
4 the IRA activities and PLO activities that have not been  
5 recognized as political offenses.

6           This was right in the middle of a civil war in  
7 Bosnia, and understanding the context of what was going on,  
8 what was being done, in his understanding, to his people is  
9 relevant to deciding whether or not these offenses, as alleged  
10 by the government, are sufficient to rise to a level of crimes  
11 against humanity that would place them beyond a political  
12 offense exception.

13           And I would ask that the Court consider, if there's  
14 any hesitation in the Court's mind about allowing the  
15 testimony, to admit it provisionally and allow the witnesses  
16 to present the evidence so that the Court can see how in fact  
17 it really does tie into the political nature of the alleged  
18 allegations.

19           THE COURT: All right. What about the rule of  
20 non-inquiry, and that is the selective prosecution, whether or  
21 not -- when the 1993 charge was returned, whether it was a  
22 legitimate political entity that returned the charge, and then  
23 the present-day circumstances over there? Isn't that all  
24 reserved for the Secretary of State under the developing case  
25 law?

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1 MS. SPENCE: There is certainly case law that would  
2 suggest that the selective prosecution evidence in some  
3 circumstances is a matter for the executive, but those cases  
4 don't involve a treaty that has the language that this treaty  
5 does. And determination of whether an offense falls within  
6 the treaty is something that the courts are able to do. And  
7 other courts have recognized that the rule of non-inquiry does  
8 not preclude the Court from making factual findings of certain  
9 conditions that did or did not exist, perhaps maybe not  
10 deciding any political question on it, but that that would  
11 apply to the selective prosecution evidence postwar.

12 As far as what occurred during the war, the evidence  
13 of the propaganda that Dr. Dahlman will offer that was being  
14 submitted to perpetuate the ethnic tensions and keep the war  
15 going is very relevant to whether or not this is a political  
16 offense. Propaganda and lies about who was doing what to whom  
17 were part of the war process over there, and so I do not think  
18 that his testimony about things happening in 1993, when the  
19 war was going on, would violate the rule of non-inquiry.

20 THE COURT: All right. Thank you. Anything further?

21 MS. SPENCE: No, sir.

22 THE COURT: Anything further?

23 MR. HEAPHY: Yeah, just very quickly, Your Honor,  
24 because there was one additional proffer.

25 THE COURT: Hang on a second. Do y'all need to

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1 switch out?

2 THE INTERPRETER: Yeah.

3 MR. HEAPHY: Am I talking too fast, too? I  
4 apologize.

5 THE INTERPRETER: You were okay.

6 MR. HEAPHY: Okay.

7 THE COURT: Are you ready?

8 THE INTERPRETER: Yes.

9 THE COURT: Thank you.

10 MR. HEAPHY: Your Honor, I'll just address  
11 Ms. Spence's last point about Mr. Nezirovic testifying, or  
12 offering to testify, about his state of mind. Again, that is  
13 a substantive defense. Testimony that he didn't do it or he  
14 didn't mean to do it isn't proper.

15 THE COURT: I think it goes to, and specifically  
16 looking at *Arambasic*, and also the Fourth Circuit case  
17 *Ordinola*, that talks about it being both an objective and a  
18 subjective inquiry. What I understand she's saying is to look  
19 at the subjective state of mind with respect to Mr. Nezirovic;  
20 if he is seeing and hearing all of these things -- if you  
21 accept as true the allegations, the subjective state of mind  
22 as to the persons who were there, and thus to explain his  
23 actions for purposes of establishing that it is in furtherance  
24 of or incident to the overall political situation.

25 MR. HEAPHY: Uh-huh. I don't know that the political

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1 offense exception contemplates any standard of state of mind.  
2 It is simply the acts are committed somehow to forward a --  
3 that's an objective inquiry. I know *Ordinola* talks a little  
4 bit about the mode of attack and the nature of the victims,  
5 but the court is evaluating whether or not those acts could be  
6 construed in some way as forwarding a political goal.

7           And in *Ordinola* -- I'm glad you raised that case,  
8 because the court cites the explicit decision of the State  
9 Department that the political offense exception is not  
10 applicable to violent attacks on civilians.

11           On the face of these papers, we have allegations of  
12 violent attacks against civilians, so there just is no  
13 political offense exception. You have to give deference to  
14 the State Department; it is an executive determination. There  
15 can be no showing of that made. His state of mind isn't  
16 relevant to that, because the acts cannot be, in the view of  
17 the State Department, construed in any way as forwarding any  
18 sort of political goal. So that testimony would not be  
19 relevant. It's essentially an offer of a defense to the case,  
20 which is something that is very relevant in the Bosnian  
21 proceeding when these charges, if and when, they're  
22 adjudicated. It doesn't affect whether or not there's any  
23 probable cause here or whether there's a political offense  
24 exception.

25           Again, Your Honor, we have to focus on what is the

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1 Court's inquiry and limit our focus and the evidentiary record  
2 to that inquiry. All of these arguments, as compelling as  
3 they are, are unlikely to be challenged in any way by us, are  
4 better saved either for the Secretary of State or, ultimately,  
5 for a trial on the merits of this in Bosnia. They're simply  
6 not appropriate here.

7 THE COURT: All right. Thank you.

8 All right, let me break it down this way: As to the  
9 testimony of Dr. Dahlman -- and here's the way that I look at  
10 the political offense exception, is that it is a two-step  
11 inquiry under the *Ordinola* case that the Fourth Circuit  
12 follows. And first of all, Mr. Nezirovic will bear the burden  
13 of establishing that there is a political uprising that is in  
14 place.

15 And while I don't think that there's going to be a  
16 lot of objection from the government to that argument, I think  
17 to a certain extent the Court can take judicial notice of many  
18 of those facts, and we may be able to go through that  
19 testimony fairly quickly.

20 I think that that's relevant to that portion of the  
21 political offense exception. I'm going to allow him to  
22 testify to that, and allow him to testify to circumstances of  
23 what was going on in the Bosnian area, specifically focused on  
24 Derventa at that time, specifically focused on the conflict  
25 between the Serbs and the Croats at that particular time, to



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1 provide that perspective. Included in that will necessarily  
2 be, understanding that there were atrocities that occurred,  
3 explaining to the Court some of those things.

4 With respect to the -- and that takes care of kind of  
5 the first two areas that I understand he is going to testify  
6 to, and that is historical context and then the context during  
7 the war.

8 With respect to the events after 1992, the rule of  
9 non-inquiry I do believe reserves for the Secretary of State  
10 the issues as to whether this is a selective prosecution;  
11 whether this is a politically motivated prosecution; whether  
12 or not the return of Mr. Nezirovic, if the Court finds that  
13 that's appropriate and the Secretary of State finds that  
14 that's appropriate, whether that will subject him to  
15 conditions that are beyond the pale, if you will. Those are  
16 all reserved for the Secretary of State. To the extent  
17 that -- so I'm not going to allow him to testify to that.

18 To the extent that his testimony goes to any issue as  
19 to whether the charge in 1993, the documents that were filed  
20 yesterday, is a legitimate criminal charge, I will allow him  
21 to testify to that, because I think that goes to some issues  
22 that may ultimately exist from a legal standpoint in the case.

23 As it relates to the fact witnesses, I'm going to  
24 kind of hold the same line in that regard in that they can  
25 testify as to what was going on at the time, to put some

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1 context into place as to the political situation. But there  
2 does need to be a nexus, both as to the expert witness and  
3 also as to the fact witnesses, as to Mr. Nezirovic. And to  
4 the extent that he's going to testify that he was aware of all  
5 these things as well, I think we'll address that at that point  
6 in time.

7 I understand well the government's argument; and  
8 ultimately, it may be exactly right, especially under the  
9 *Ordinola* case, that to the extent -- the allegations are that  
10 these offenses were committed against civilians. And except  
11 as to one particular complaining witness, I'm not sure there's  
12 going to be a challenge that anyone else was anything other  
13 than a civilian. And ultimately, the political offense  
14 exception may not exist because of the holdings in *Ordinola*  
15 and other cases.

16 But I'm going to allow Mr. Nezirovic to build a  
17 complete record so that I can make that decision based upon  
18 that information. And so I'm not ruling the political offense  
19 exception exists, I'm not ruling in that regard, but I'm  
20 allowing Dr. Dahlman to testify.

21 But what I don't want to have is -- I want it to be  
22 tailored to information that would have been known to  
23 Mr. Nezirovic, information that would have been -- that would  
24 apply to his particular unit and what he would have known with  
25 respect to the role his unit played in this conflict, and then

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1 any acts that would have occurred in the Rabic camp in the  
2 spring and summer of 1992.

3 All right. Does that cover everything, Ms. Spence?

4 MR. HEAPHY: I think I understand, Your Honor. Yes.

5 MS. SPENCE: Yes, I understand.

6 THE COURT: And Dr. Dahlman is going to testify  
7 first?

8 MS. SPENCE: Yes, Your Honor.

9 THE COURT: Okay. So I think we need about ten  
10 minutes or so to get him squared away.

11 THE CLERK: Right.

12 THE COURT: We'll take a brief recess until we can  
13 get Dr. Dahlman in place.

14 (Recess taken from 9:54 a.m. until 10:05 a.m.)

15 THE COURT: All right. Before we get going,  
16 Ms. Spence, I just want to make sure that we are -- that I'm  
17 clear on a couple of things. With respect to the issue of  
18 identity, is it my understanding that Mr. Nezirovic does not  
19 contest the identity issue as it relates to he is one that is  
20 identified, at least in the charging documents?

21 MS. SPENCE: We don't contest that he's been  
22 identified by three people.

23 THE COURT: Okay. All right, very well. We'll deal  
24 with that.

25 All right. My understanding, you wish to proceed and

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1 we'll take Dr. Dahlman out of order.

2 Dr. Dahlman, good morning.

3 THE WITNESS: Good morning.

4 THE COURT: My name is Robert Ballou. I want to make  
5 sure that you can understand me and everything that's going on  
6 here. Can you hear us just fine?

7 THE WITNESS: The audio slipped out there.

8 THE COURT: All right. Can you hear us just fine  
9 now?

10 THE WITNESS: Most of the time, yes.

11 THE COURT: Does this microphone go in and out?  
12 Sometimes my microphone will go in and out.

13 Okay. I'll ask everyone, make sure you speak clearly  
14 into the microphones so that Dr. Dahlman can hear you.

15 And, Dr. Dahlman, if at any point in time you do not  
16 hear us completely, don't get a full question, just let us  
17 know and we'll make sure we repeat it. If you answer a  
18 question, we're going to have to presume that you understood  
19 and heard the full question. All right?

20 THE WITNESS: Okay.

21 THE COURT: All right. Let's go ahead and have him  
22 sworn. And you can proceed, Ms. Spence.

23 THE CLERK: Dr. Dahlman, can you raise your right  
24 hand, please.

25 CARL DAHLMAN, Ph.D., WITNESS FOR ALMAZ NEZIROVIC, SWORN

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1 DIRECT EXAMINATION

2 BY MS. SPENCE:

3 Q Good morning, Doctor. Would you state your name for the  
4 record.

5 A Carl Dahlman.

6 Q What is your current occupation?

7 A Professor of geography at Miami University.

8 Q What is geography?

9 A Geography is a broad field. We study everything from  
10 human environment interaction to human societies and the  
11 spaces and places that they occupy.

12 Q How long have you been a geography professor at Miami  
13 University?

14 A Here, since 2006.

15 Q And where did you teach before that?

16 A I taught at the University of South Carolina in Columbia,  
17 South Carolina.

18 Q And how long were you there?

19 A I was there for five years.

20 Q What is your formal education?

21 A I did two undergraduate degrees: a BA in music, a  
22 bachelor of science in sociology. I did a master's degree in  
23 urban affairs, and Ph.D. in geography, as well as a graduate  
24 certificate in social theory.

25 Q Where did you get your bachelor degrees?

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1 A Virginia Tech.

2 Q And your master's?

3 A Virginia Tech.

4 Q And where did you get your --

5 MR. HEAPHY: Your Honor, excuse me. I'll stipulate  
6 to his qualifications. I don't think we need a lengthy voir  
7 dire.

8 THE COURT: Very well.

9 Do you have a CV?

10 MS. SPENCE: I do, Your Honor. And I would at this  
11 time offer it into evidence.

12 THE COURT: Any objection?

13 MR. HEAPHY: No, sir.

14 THE COURT: It will be so admitted as Defense Exhibit  
15 Number 1.

16 (Defendant's Exhibit Number 1 was marked and received.)

17 THE COURT: All right, thank you.

18 Go ahead, Ms. Spence.

19 MS. SPENCE: Thank you.

20 BY MS. SPENCE:

21 Q Dr. Dahlman, I want to ask you specifically about Bosnia.  
22 Have you been to Bosnia?

23 A Yes. I've been many times, and traveled to former  
24 Yugoslavia many times over the last 12 years.

25 Q And many of the articles and publications on your CV are

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1 specifically about the geopolitics of Bosnia?

2 A Yes. I would say the bulk of them are, including the  
3 major book that I coauthored, about five chapters in other  
4 books, and nine academic articles.

5 Q How did the country of Yugoslavia come to be?

6 A Yugoslavia was put together after World War I. The end  
7 of the Ottoman and Austro-Hungarian Empire lead to the  
8 creation of a Kingdom of Yugoslavia, also known as the Kingdom  
9 of Slovenes, Croats, and Serbs. That was put together in  
10 1918; it existed as a kingdom until World War II. It was  
11 occupied by the German and Italian forces during World War II,  
12 reorganized for a few years, and then came back as the  
13 Socialist Federal Republic of Yugoslavia, the second  
14 Yugoslavia, you could say, from 1945 until 1992.

15 Q What people originally inhabited the area known as  
16 Croatia?

17 A The area currently known as Croatia is thought to have  
18 been originally occupied by a number of Slavic groups that  
19 moved there about, roughly, the 7th or 8th Century A.D. They  
20 were later Catholicized and remain nominally Roman Catholic  
21 today.

22 Q How about Serbia?

23 A Serbia was predominantly occupied by another Slavic group  
24 that came there at about the same time. They have been, as a  
25 group, more closely identified nominally with the Orthodox

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1 variant of Christianity and have their own national church,  
2 the Serbian Orthodox Church.

3 Q And what about Bosnia?

4 A In Bosnia, they're a mix of Croats, that is to say  
5 Slavic-speaking Catholics, and Serbs, that is to say  
6 Slavic-speaking Orthodox peoples.

7 There are also a large number of people that practiced a  
8 medieval faith, and many of these people converted to Islam  
9 under the Ottoman Empire; so they are of the same groups that  
10 originally inhabited that area but chose the Muslim faith  
11 during the years of the Ottoman Empire.

12 And in Bosnia, I should say you have a mix of all three,  
13 as well as Roma, a small minority now of Germans, and so on.

14 Q Traditionally, have there been national or religious or  
15 ethnic tensions among the citizens of Bosnia prior to the  
16 communist era?

17 A There were, in the 19th Century, there were nationalist  
18 movements throughout Europe. And these were political parties  
19 that advocated for separate cultural groups or nations to have  
20 their own states. But they were political parties; they  
21 didn't necessarily dominate social life or define social  
22 regulations among people. So there have been these  
23 nationalist projects and these nationalist tensions over the  
24 last two centuries. But it's important to point out that  
25 Bosnians have lived together -- of different faiths, have



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1 lived together for hundreds of years, with long periods of  
2 peace and stability.

3 Q During the pre-World War II Kingdom of Yugoslavia, which  
4 of the entities that had been put together to create that  
5 kingdom was the dominant entity?

6 A Well, Serbia had been a major force since the late 19th  
7 Century. As they broke away from -- as they broke away from  
8 the Ottoman Empire, they were backed by the Russians. They  
9 sort of appeared first as a kingdom, as the empires broke up.  
10 In that area, it had long been dominant and exerted a great  
11 deal of influence on its neighbors, especially in Bosnia.

12 Q The media has often portrayed this as a conflict between  
13 Serbs, Croats, and Muslims. Is that an accurate  
14 characterization of the Muslims?

15 A Well, Muslim in the sense of former Yugoslavia or Bosnia  
16 is oftentimes qualified, terms like Muslim in the cultural  
17 sense, or the Islamic nation, so the sense that they are  
18 nominally Muslim.

19 The important distinction here is that the influence of  
20 religion in these groups during the 20th Century was  
21 important, but it was just one of many things that were part  
22 of people's experience. And during communist Yugoslavia,  
23 religion was more marginalized. It wasn't outlawed, but it  
24 was marginalized, and people didn't necessarily identify so  
25 strongly with their culture or their ethnic group. It was

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1 known, but it wasn't necessarily the most important thing to  
2 them. It was more important to have camaraderie with  
3 coworkers or a common military experience against the Nazis or  
4 something like that. But there were other things that allowed  
5 people to identify with each other.

6 Q So for non-Serbian and non-Croatian people in Bosnia,  
7 would "Bosniak" be a more accurate reference?

8 A Bosniak is a more accurate reference. It helps us to  
9 better -- to remind ourselves that these are not  
10 necessarily -- well, Bosniaks oftentimes describe themselves  
11 as not being very good Muslims, in the sense they don't  
12 necessarily follow the strictures of the kinds of austere  
13 interpretations of Islam like you would find in parts of the  
14 Middle East.

15 Q What factors led to the demise of communist Yugoslavia?

16 A Well, the 1980s were a period of political transition in  
17 Yugoslavia after the death of Josip Broz Tito, who had been  
18 the leader of communist Yugoslavia, had fought against the  
19 Nazis. There was competition for leadership within the  
20 communist party, and it wasn't clear who was going to win  
21 that.

22 At the same time, there was something of a resurgence of  
23 nationalist groups, politicians who were advocating for  
24 greater autonomy for the different national groups, so in  
25 Slovenia, in Croatia, in Macedonia, and in Serbia and so on.

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1       The real crisis came about when there was an economic  
2 crisis of the 1980s. There was no clear leadership or a way  
3 out of the crisis. And as the rest of Eastern Europe began to  
4 transition away from communism and there was a movement  
5 towards free elections, there were not many good alternatives  
6 in terms of politically where the country should go. So the  
7 strongest voices in Yugoslavia became these relatively, at the  
8 time, small political parties that had organized themselves  
9 around ethnic and national identities.

10 Q     Who was Milosevic?

11 A     Milosevic was a Communist Party official who was a  
12 politician first in the city of Belgrade, and then became more  
13 active in the party. He was one of the first of the  
14 nationalist politicians in Yugoslavia to advocate for stronger  
15 national rights. He became president of Serbia at a time that  
16 the Yugoslav constitution was being attacked as unfair to  
17 certain peoples. It was a time when there was an interest in  
18 Slovenia and Croatia to perhaps be more autonomous.

19       Meanwhile, the Milosevic regime wanted to gain more power  
20 within Yugoslavia and to have a Serbian-dominated Yugoslavia.  
21 And so he became the leader of the Serb nationalist party  
22 within Serbia, but also was very much influential in the Serb  
23 nationalist party that you found in Croatia and in Bosnia  
24 among the Serbs living there.

25 Q     So how did he feel about actions by Croatia and Slovenia

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1 and Bosnia to become independent entities?

2 A Well, originally his plan seemed to have been that he  
3 wanted to keep Yugoslavia together, with Serbia as the  
4 strongest player; in other words, a centralized authority.

5 Increasingly, though, as he sought that route, it fueled  
6 separatist sentiments in Slovenia and Croatia. And so as  
7 those countries left and he realized he couldn't keep them  
8 from going, he decided -- he and other Serb nationalists  
9 decided what they needed to do was to redraw the boundaries of  
10 Yugoslavia.

11 And as Bosnia started to talk about separating from  
12 Yugoslavia as well, the plan came to be to encourage Serb  
13 separatist areas to break away within Croatia, to break away  
14 within Bosnia, and to remain a part of Yugoslavia by redrawing  
15 the boundaries in the region.

16 Q And when did Milosevic begin contemplating this plan?

17 A Well, to the extent that we can see it in formation, we  
18 can see the arguments that he made as he was a politician as  
19 early as 1987, 1988. In terms of organizing a plan to  
20 reorganize Yugoslavia, 1989/1990, as he was president of  
21 Yugoslavia, he began to put these policies in place.

22 In terms of reorganizing the territory, this is a plan  
23 that came into formation in 1991 most clearly. It could have  
24 begun earlier than that. He early had people surrounding him  
25 who were more radical than he was, if you can imagine, who

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1 advocated for this kind of territorial organization, new  
2 partition, new boundaries, moving populations, and so on. He  
3 had people around him advocating for that in the late 1980s.  
4 So to the extent we can see him putting a plan into place and  
5 supporting Serb separatists in Croatia and Bosnia, that was  
6 clearly going on by 1991.

7 Q What types of things was he doing to encourage Serb  
8 nationalism?

9 A Well, he pitched all issues in society as ones relating  
10 to nationalist divisions or ethnic divisions -- I use the  
11 terms interchangeably -- and that he began to get people who  
12 had not been thinking about nationalist issues to think about  
13 things in those terms. And so, for example, economic hardship  
14 was increasingly seen as -- he would argue: Why are the  
15 Slovenes better off than the Serbs?

16 He also made arguments that were more propagandistic,  
17 that were about a Serb attitude of having suffered under the  
18 Ottoman Empire for hundreds of years, though the Ottoman  
19 Empire ended in the 1920s; and that the presence of Muslims in  
20 particular, and especially Albanians within Kosovo, were  
21 things that should not be accepted by the Serb nation on  
22 cultural and religious grounds; and that the Serbs needed to  
23 make history, and that they needed to change their  
24 circumstances.

25 So he had control over the television stations, because

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1 it was still a relatively communist country, news and media  
2 were still in control of the government, and he used these  
3 channels to make these speeches. He would go places and make  
4 speeches. He also began -- so as he began to poison society  
5 with these ideas, he was not alone in that, but he was a major  
6 proponent of it.

7 He also began, through the military, to reorganize the  
8 military structure, both within the Yugoslav national army,  
9 and also moving arms around so that the guns would be in the  
10 hands increasingly of his loyal supporters in the Serb  
11 Democratic Party, the SDS.

12 Q What kinds of propaganda in particular did --

13 THE INTERPRETER: Hold on a second.

14 THE COURT: We're switching out interpreters,  
15 Dr. Dahlman.

16 THE WITNESS: Okay.

17 THE COURT: All right, are you ready?

18 THE INTERPRETER: Yes.

19 THE COURT: Go ahead.

20 BY MS. SPENCE:

21 Q What kinds of propaganda did he use, did he put on the  
22 TV, for example, other than the speeches and whatnot?

23 A Well, he and his party -- you have to remember, he had a  
24 lot of people helping him with this, but he was in control.  
25 The kind of propaganda would be anything from as simple as

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1 saying, "Well, exports are bad, it must be the fault of one of  
2 the national groups," this kind of blaming, as simple as that.

3 But there were also references to historical events,  
4 especially during World War II. The major rival to Serbian  
5 power within Yugoslavia was Croatia, both in terms of its size  
6 and in terms of its economy.

7 And Croatia, one of the political parties among Croats in  
8 World War II had been aligned with the Nazis. They were  
9 called the Ustasa, and they were associated with a lot of  
10 atrocities. And though that was a small number of the  
11 Croatian people, he would -- he and others in the Serb  
12 nationalist media would refer to Croatians not as Croats but  
13 as Ustasa, that they were traitorist, that they couldn't be  
14 trusted. These kinds of old crimes were brought up.

15 Likewise with Muslims, they were associated with a  
16 distant Ottoman past. Terms like "baliya," and so on, that  
17 referred to Muslims in a derogatory way, would be common on  
18 state-run television.

19 Likewise, Muslims would be referred to as "mujahideen,"  
20 trying to take the language of the sort of more radical  
21 Islamic events that you had in the Middle East in the 1970s  
22 and '80s, and trying to tag those on to the Muslims in  
23 Yugoslavia, who were much more secular and not radical.

24 So this kind of language and these kinds of historical  
25 images would be brought up time and again to sort of try and

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1 remind the Serbian people that they had been wronged in the  
2 past. And instead of just referring to particular crimes, he  
3 would refer -- and the media would refer to whole groups of  
4 people. So it was the creation of kind of a group mentality  
5 that, "We Serbs have been harmed by 'all' those Croats, or  
6 'all' those Bosniaks or Muslims."

7 Q Did his propaganda include blatant lies and  
8 misrepresentations?

9 A Absolutely. He got his historical facts wrong on more  
10 than one occasion, and would oftentimes refer to Serbian epic  
11 history as sort of a nationalist myth, in the absence of any  
12 real substance.

13 Q Were there other sources of the propaganda and  
14 nationalist polarization in Bosnia?

15 A Well, there was also coming from Croatia -- Franjo Tudman  
16 was a very strong Croatian nationalist. They had similar kind  
17 of language. They would refer to -- that media, for example,  
18 would refer to the Serbians as Chetniks, referring to a group  
19 of separatist Serbian monarchists who hadn't really been  
20 around in a while; and, again, trying to remind people of  
21 atrocities or things that happened in the first Balkan wars of  
22 the 1910s. They would also raise questions about the loyalty  
23 of Bosniaks within Bosnia.

24 There was also a lot of group mentality. I think this is  
25 most important thing to understand is that the nationalists



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1 had to take a society that was multi-ethnic and get people to  
2 think instead in terms of separate groups, and begin to fear  
3 each other. So the Croatian media that was broadcast into  
4 Bosnia, the Serbian media that was broadcast into Bosnia,  
5 contained quite a bit of this nationalist propaganda.

6 Q What was the ethnic makeup of Bosnia in 1991?

7 A The population, according to the census of 1991,  
8 identified itself about 44 percent Muslim or Bosniak,  
9 31 percent Serb, 17 percent Croat, and two other categories,  
10 6 percent describe themselves as Yugoslav, and a little more  
11 than 2 percent describe themselves as other, including at the  
12 time a population of Jews living in Sarajevo, a number of  
13 Germans who still lived in the north of the country, and Roma,  
14 who were commonly referred to in the U.S. as gypsies.

15 Q When did Bosnia vote to become a sovereign nation?

16 A In January 1992, through referendum.

17 Q And when did the international community grant  
18 recognition to independent Bosnia as a nation?

19 A The Badinter Commission began to look at the question,  
20 and it was really by March of '92 that Germany and other  
21 countries began to recognize Bosnia's referendum on  
22 independence. It was sort of a rolling process.

23 Q And when did the United States announce recognition of  
24 Bosnia?

25 A I would have to look up that detail. I would say roughly

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1 the same time. It wasn't quite as important as the European  
2 countries recognizing their independence.

3 Q Would April 7th sound approximately right?

4 A Yeah. It was that spring, it was about that time. And  
5 it was after the war was considered to have officially begun,  
6 yes, about a week later.

7 Q What started the physical war, or what group started the  
8 physical war in Bosnia?

9 A Well, the organized military action was carried out by  
10 several parties, all associated with the Bosnian Serbs, the  
11 State of Serbia, which at the time was still Yugoslavia, and  
12 the Yugoslav National Army, whose job was supposedly to  
13 protect the whole of Yugoslavia and all of the people of  
14 Yugoslavia. But at that time they were under the command of  
15 the central authority in Belgrade, Serbia, and worked on  
16 behalf of the Bosnia Serb interests.

17 So there were really three major formations: the Yugoslav  
18 National Army that I mentioned; territorial fighters that are  
19 sort of like our National Guard, that were organized within  
20 Bosnia, among Bosnian Serbs; and paramilitary groups that were  
21 brought in, oftentimes brought in from outside of Bosnia, to  
22 do a lot of the killing during the first month of the war.

23 Q I may have covered this, but I don't think I did, so I  
24 want to make sure.

25 What types of things were done during the 1990, '91 time

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1 period to build up the Serbian Bosnian -- or the Bosnian Serb  
2 Democratic Party?

3 A Well, the party was created first to run in the first  
4 competitive elections. As the rest of Eastern Europe was  
5 going, so went Yugoslavia. They were having competitive  
6 elections, and so it was a democratic process. And the Serb  
7 Democratic Party was one of several parties that were  
8 organized.

9 The parties that did the best happened to be  
10 nationalists, because of the reasons I mentioned. There were  
11 also other parties, like social democratic parties; there was  
12 still a communist party that was running, and so on. The SDS,  
13 the Serb Democratic Party, during that time, there was  
14 financial support coming from the Serb Democratic Party in  
15 Serbia proper, under Milosevic.

16 At the same time, as 1991 progressed and it appeared that  
17 there was going to be some form of conflict, which did in fact  
18 begin in Croatia, there was the organization of local militia  
19 units among the Bosnian Serbs that would oftentimes include  
20 members of the police, people who had been in the local  
21 territorial defense, people who had been or still were in the  
22 Yugoslav National Army.

23 There was some military training. Some of that was  
24 sponsored and organized by the state police and secret  
25 services of the State of Serbia -- the Republic of Serbia, I

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1 should say. There was the reallocation of weapons that had --  
2 weapons had been stashed in every part of Yugoslavia during  
3 the cold war as part of the territorial defense, and these  
4 arms were being reallocated to supporters of the SDS, to  
5 militias associated with the SDS.

6 So much in the same way that in Ireland you had a  
7 political party that was Irish nationalist, and then they had  
8 a military wing called the IRA, you had a similar kind of  
9 organization being formed in 1991 among the Serb Democratic  
10 Party, that had politicians but also a military wing.

11 And I should say that the Croatian party, the HDZ, was  
12 doing a similar thing.

13 And as that got going into 1991, by the end of it, so too  
14 was the so-called Bosniak party, the SDA, in Bosnia, beginning  
15 to try to gain weapons, though it was -- it came too late to  
16 the process to really -- to grab many weapons.

17 Q What was the crisis staff?

18 A The crisis staff was a division within the SDS that was  
19 put together in 1991. It was multi-level in the sense that  
20 they had an organization at the top level, all the way down to  
21 the local level. And the crisis staffs of the local level  
22 were organized in anticipation of conflict; that as things  
23 were going to move towards this forcible change in the  
24 territory, through the breakaway regions, the Serb breakaway  
25 regions, that these local crisis staff were going to help to

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1 organize the change and control over the territory, which  
2 meant they had to organize the paramilitaries to come in and  
3 do the killing, to do the ethnic cleansing. They were there  
4 to prepare the way for local Serb rule and to establish new  
5 Serb government within the territories that they were  
6 claiming.

7 Q And what direction did the central crisis staff give to  
8 the local SDS crisis staff committees?

9 A Very clear directions. The main SDS party put together a  
10 series of plans and sent out memoranda to the local parties  
11 frequently. Some of them are quite telling in the sense that  
12 they lay out the plan of how to take over the local  
13 municipality, which is the basic local form of government in  
14 Bosnia. So it tells the local crisis staff, "If you're in a  
15 majority area, organize the Serb majority to vote for these  
16 things, and then take over and push out the other ethnic  
17 groups that defy you. If you are in an area where you are not  
18 a majority, you have to use violence to change the ethnic  
19 majority, to gain control politically over the municipality."

20 Q And when were those explicit directions sent out?

21 A Let me check my notes. I've got -- I could tell you six  
22 different versions of them, but the ones that were clearest  
23 came out -- the ones that were clearest in anticipation for  
24 what happened in '92 in Bosnia came out in December of '91,  
25 about four months before the war started.

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1 Q What is ethnic cleansing?

2 A Ethnic cleansing is a strategy to change the population  
3 of a territory and, therefore, to change control over that  
4 territory. It's a political strategy in the sense that it  
5 wants to create a new demographic reality. It's also, as a  
6 result -- usually requires some kind of military or police  
7 action to affect that change.

8 The most notable part about ethnic cleansing is the  
9 forcible expulsion, the forced migration of people from a  
10 territory at gunpoint, using violence, using coercion, and  
11 forcibly detaining people, putting them on buses, taking them  
12 away. It also includes murder and other forms of violence.

13 Q And was this part of the strategy set forth to the crisis  
14 staffs?

15 A The crisis staffs were aware that the military action  
16 that would be taken to establish control over their local  
17 areas would include a military action that included all of  
18 these armed forces that I mentioned, to control the territory  
19 and to expel the, for lack of a better term, unwanted  
20 population, to do the ethnic cleansing. And so hiring  
21 paramilitaries to come in and do the dirty work was part of  
22 the organization of the plan.

23 Q Now, you indicated that that was particularly going to be  
24 necessary in areas where Serbs were not the majority?

25 A Well, exactly, because any kind of -- there's a pretense,

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1 for these things to be democratic, that majority rule. And  
2 that if you weren't in the ethnic majority, then you had to  
3 change the ethnic majority in order to rule.

4 And so this was the reason for higher levels of violence  
5 being used in places, for example, in Eastern Bosnia where in  
6 many municipalities there were more Bosniaks than Serbs. So  
7 the ethnic cleansing forced the Bosniaks out, killing many,  
8 expelling others, scaring away more, and then allowing the  
9 remaining Serbs to establish control over the territory as the  
10 new remaining group. They were in the majority.

11 Q Was Derventa one of the areas that was previously  
12 majority Bosniak?

13 A It was not majority Bosniak. It had roughly -- there was  
14 no majority in Derventa. It was, like many parts of Bosnia,  
15 ethnically mixed. The two largest groups there were Serb and  
16 Croat. There were a smaller number of Muslims, about 8,000, I  
17 believe, 7,500. I could give you the exact numbers if you  
18 would like.

19 Q That's okay. Were the Serbs the majority?

20 A Slightly.

21 Q Was Derventa targeted for --

22 A A number of Croats and Serbs. Sorry.

23 Q Did the Serbian Nationalist Party target Derventa for  
24 ethnic cleansing?

25 A Yes.

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1 Q How about Doboj?

2 A Yes.

3 Q Was Doboj majority Serbian before the war?

4 A The city proper was not, and that's where the larger  
5 population was. Again, it was a multi-ethnic locality.

6 Q What was the Posavina corridor?

7 A The Posavina corridor -- "Posavina" means the area near  
8 the Sava River. The Sava River runs from west to east across  
9 the top of Bosnia. It defines the boundary between Bosnia and  
10 Croatia.

11 As the war was taking place in Croatia and then in Bosnia  
12 between '91 and '92, there were really two main areas of  
13 Serbian control. Serbian forces controlled Serbia proper and  
14 Eastern Bosnia. They also had breakaway regions in Western  
15 Bosnia and parts of Croatia. The connection between these two  
16 large areas of Serbian control was a very thin passageway, at  
17 times very thin, running just south of the Sava River, in  
18 Bosnia. It was the lifeline. It was the connection between  
19 these two larger areas.

20 Q And where are Doboj and Derventa in relationship to this  
21 corridor?

22 A They're on the western end of this corridor. They're --  
23 Doboj especially is a major transportation hub. Derventa is  
24 the next largest town to the north. And so they were two of  
25 the towns, along with Brcko to the east, that formed the



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1 gateway to this passage between the areas of Serbian control.

2 Q Describe how the attacks on Bosnian cities began at the  
3 beginning of the war, when they move in to try to cleanse a  
4 targeted area.

5 A Well, so there were -- there were two general formats.  
6 One of them was the Yugoslav national army would come in,  
7 block off the roads around the main town, would use heavy  
8 artillery to shell the town and scare the population.

9 The Serb population, if we're talking about these areas  
10 at the beginning of the war that were ethnically cleansed by  
11 Serbian forces, the Serbian population had been warned to hide  
12 or leave town in advance of that. The local militia units  
13 would move in to set up checkpoints and take control over the  
14 town itself, and then the paramilitaries would come in and do  
15 the killing. They usually had a list of individuals who were  
16 notable politicians, community leaders, professionals, like  
17 doctors and teachers, and so on, and the job of the  
18 paramilitary was to target this list because they were the  
19 basis for the other community. They were the center of life  
20 for the other community. So the idea was to round them up or  
21 kill them.

22 Along the way, indiscriminate murder and rape was used to  
23 terrorize the population. The remaining individuals would be  
24 expelled, forced to leave, put on buses, or what have you.  
25 And then the town, those properties were looted and those

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1 properties were then given away in time to Serbs who were  
2 displaced from other parts of the country.

3 The other format of the war, as you had in Derventa, was  
4 the one that began with military operations, that what  
5 happened was, in the town of Derventa, it was taken over.  
6 There were skirmishes within the town, and there was a  
7 Croatian proper and Bosnian-Croat joint military effort to try  
8 to hold that town, to try to cut off this Posavina corridor  
9 from the north, and they held on to Derventa.

10 So at first it was a military operation, and they were  
11 less concerned about trying to round up the local population.  
12 When that situation reversed, in 1992, in June, and by July,  
13 really, the Bosnian-Serb forces came into Derventa. And once  
14 they controlled it militarily, then they began a round of  
15 ethnic cleansing that removed most of the non-Serbs from  
16 Derventa.

17 Q What areas of Bosnia had been -- did ethnic cleansing  
18 start in, in April of 1992?

19 A Most clearly in Eastern Bosnia, from northeastern Bosnia  
20 all the way down the Drina River Valley in the east. There  
21 were also rounds of ethnic cleansing across northern Bosnia.  
22 In April of '92, towns like Prijedor and Banja Luka there,  
23 which are not far from Derventa, had extensive ethnic  
24 cleansing going on. The towns along the north of Bosnia, near  
25 Derventa, had ethnic cleansing going on.

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1 Derventa's story came just a few months later, when the  
2 Croat forces fell apart, then that's when the ethnic cleansing  
3 there happened. But in Doboje it also happened right away,  
4 beginning in April, May, and June.

5 Q Would people in Derventa have been aware by mid April of  
6 what was happening in Banja Luka and those other areas?

7 A Yes. Yes, the news reports were circulating, it was  
8 apparent what was going on in other parts of the country. And  
9 though there was quite a bit of disbelief and shock, it's  
10 precisely that disbelief and shock that caused people to have  
11 to take sides. As they saw the war get closer to their own  
12 town in each case, they knew what the outcome could be. They  
13 understood that the target of the war was not just territorial  
14 but to change the population through ethnic cleansing.

15 Q What was the name of the Bosnian Serb army?

16 A Well, the Bosnian Serb army was made up of a number of  
17 different units, and at the start of the war, it was hard to  
18 distinguish the Yugoslav national army, the local militias,  
19 and the paramilitaries. So one of the first things that the  
20 Bosnia Serb Republic, Republic of Srpska, as it was declared  
21 to exist, this breakaway republic of Serbs in Bosnia, one of  
22 the first things they had to do was to formalize the army into  
23 the Bosnia Serb army, and that meant absorbing the  
24 paramilitary units that they could control. They couldn't  
25 control all of them. And it also meant making the impromptu

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1 militia into formal units.

2 The key thing there is to understand that the Yugoslav  
3 national army that had participated in attacking these towns  
4 was under -- that Serbia and Milosevic was under pressure to  
5 withdraw the national army from Bosnia, as it had been under  
6 pressure to remove from Croatia.

7 What Milosevic did was to basically rename many units of  
8 the Yugoslav national army and say, "If you're from Bosnia and  
9 you want to fight in Bosnia, you can stay with your equipment.  
10 The rest of you have to come home." Well, a large part of the  
11 Yugoslav national army just changed its insignia, changed its  
12 name and became the VRS, the Vojska Republika Srpske, the army  
13 of the Serb Republic. But in many ways, it was made up of  
14 these members, units and equipment from the Yugoslav national  
15 army, which was heavily equipped local territorial militia  
16 units and paramilitaries.

17 Q Did or when did the VRS obtain control of the Posavina  
18 corridor?

19 A It took several months after the start of the war to  
20 control it completely. They had moments where they controlled  
21 it briefly, but it was firmly established by June, mid, late  
22 June of 1992, that the VRS, the Bosnia Serb army had control  
23 of the Posavina corridor.

24 Q Including Derventa and Doboj?

25 A Yes. In fact, that was their major reason for

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1 counterattacking in Derventa, was to help shore up this  
2 western end of that corridor.

3 Q At that point in time, approximately how many people in  
4 Bosnia had died as a result of this war?

5 A The first few months of 1992 were the most lethal in the  
6 war, and by that time, about 45,000 people had died, roughly  
7 an equal number of civilians and soldiers within that 45,000.

8 Q And how did it break down on ethnic lines?

9 A On ethnic lines, well, overall for the -- for the four  
10 years of the war, 80 percent of -- about 80 percent, maybe  
11 83 percent of the civilian deaths and missing were Bosniaks.  
12 And that proportion is about correct for the first few months  
13 of the war as well. Disproportionately, in other words.

14 Q The self-declared Republic of Srpska essentially was  
15 fighting to maintain political and territorial control of the  
16 parts of Bosnia, if I'm understanding this?

17 A Correct.

18 Q Was the Republic of Srpska a recognized, legitimate  
19 government on the international scene during the war?

20 A No.

21 Q And the war lasted how long?

22 A From -- formally, from April '92 until November of '95.

23 Q So in 1993, the Republic of Srpska was not a recognized  
24 governmental entity for Bosnia?

25 A No. The idea that -- they wanted -- they had declared

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1 themselves as an independent state, but they were not  
2 recognized as such.

3 Q What was the Doboј Public Security Center?

4 A Well, the local security centers within the Serb Republic  
5 that we're talking about were really the first attempt at the  
6 government organizing control over the very dynamic situation  
7 during the war, which is to say that police matters and  
8 military matters were all mixed together. The security  
9 centers, they also had intelligence units that were former  
10 local intelligence units, and also intelligence assistance and  
11 security assistance coming in from Serbia.

12 So these local security centers were gathering  
13 information, trying to understand what was going on really  
14 within a military operation. But like I said, the police were  
15 part of the military at that point, and so it was all kind of  
16 mixed together within these security centers.

17 Q And what about the Agency for National Security? Was  
18 that a Bosnian entity or Republic of Srpska creation?

19 A Each one of the entities created its own security agency  
20 and intelligence agency. Basically, they inherited the model  
21 that they had from Yugoslavia, which is the one that they  
22 knew, and so they each created one.

23 The Bosnian Serb Republic created a security agency to  
24 try to, again, put together all of these services to gain some  
25 kind of -- to consolidate territorial and political control

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1 over the situation within the territory that they had  
2 conquered.

3 Q Would activities by the national security agency and the  
4 Public Safety Center have been part and parcel of the war at  
5 that point in time?

6 A Yes, absolutely. They were under control by the  
7 political party. The SDS and the politicians who had taken  
8 over the Serb Republic and who had declared this breakaway  
9 independent country, their actions would be have been part of  
10 fighting a war that was, on the one hand, about classic  
11 military concerns; that was also about trying to identify  
12 potential threats to their new state, which at the time meant  
13 anybody who was not a loyal Serb. And that's not just  
14 Bosniaks and Croats, but that means other Serbs as well fell  
15 under their scrutiny. It was much like the secret police that  
16 had existed in Yugoslavia and other communist countries.

17 Q Would actions taken by the Public Safety Center or the  
18 Agency for National Security in 1993 be official actions of  
19 the government of the Bosnian country?

20 A No. They would not have been part of the recognized  
21 country of Bosnia.

22 Q How much did propaganda play into reports prepared by  
23 these agencies at the end of '92 and early '93?

24 A Well, it's fair to say that the security agency was --  
25 well, they were insecure. They were paranoid, and they were

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1 picking up information on everything that they thought might  
2 be important or useful. And part of the use of information  
3 was to make further propaganda, to say, "Here are the enemies  
4 of the new Serb Republic," but also to try and -- you have to  
5 understand that the Bosnian Serbs, one of their major battles  
6 was a propaganda battle on the international stage. They were  
7 trying to argue that they were, by right, a conquered  
8 territory and should be recognized as an independent state;  
9 that they had not been the aggressors but in fact the victims.  
10 They were trying to play it both ways, and so they needed --  
11 they were always looking for propagandistic information to  
12 say, "Well, here's a Bosniak," or "Here's a Croat," or "Here's  
13 somebody who tried to do this," to try and justify their own  
14 actions.

15 Q Describe, if you will, the types of war crimes that  
16 occurred during the whole of the Bosnian war.

17 A Well, I think the best way to do that is to look at which  
18 war crimes have actually been convicted, in which there have  
19 been convictions, mostly through the ICTY and The Hague. And  
20 what we see are violations of most of the major elements of  
21 what are called the laws of war.

22 So to be brief, that includes indiscriminate killing of  
23 civilians during military operations; expulsions and  
24 deportations; mass rape; torture; imprisonment without  
25 justifiable reason or trial; genocide; destruction of



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1 property, private property, public property, and cultural  
2 heritage; forceable work, like labor camps. These and other  
3 forms of discrimination and persecution which might not rise  
4 to the level of murder or violence were also part of the kinds  
5 of crimes committed in these campaigns to create new  
6 countries.

7 Q Specifically with reference to Doboј in April of 1992,  
8 what major war crimes were committed there? I think there was  
9 a school that had been turned into something?

10 A Okay. There were -- within that area, based on my  
11 investigations on the ground, the stories I have heard and for  
12 which I think there is good evidence is we see a pattern much  
13 like the rest of Bosnia, in which there were murders, torture,  
14 rape camps, again, indiscriminate targeting of civilians,  
15 destruction of private property as part of the ethnic  
16 cleansing campaign. I think a charge of genocide would be a  
17 bit hard in the case of Doboј, but you certainly have clear  
18 violations of the Geneva Conventions and the articles about  
19 crimes against humanity that came out in Nuremberg. These  
20 were all -- as well as deportations, expulsion, that is to say  
21 forced migration, theft.

22 Q Was there a rape camp in Doboј?

23 A There is reported to have been one, yes. And that would  
24 have been in keeping with -- it's in keeping with the stories  
25 that I've heard during my visits there. It's in keeping with

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1 the strategies that were used in that part of the country at  
2 the time. There have not been any clear judgments made about  
3 who did that, which is why I'm parsing my words carefully.

4 Q What was a rape camp? What would they -- how would  
5 people get there? Who would be there? What would happen?

6 A The rape camps were organized as part of a larger prison  
7 system that some individuals who were being ethnically  
8 cleansed were expelled, and others were put into prison. The  
9 reason for them being put into prison were typically one of  
10 two things: to keep fighting-aged men from joining the other  
11 side, and then to use them in exchange for other prisoners;  
12 rape camps, that were basically forms of payment to the  
13 paramilitary and the militias that were fighting. In other  
14 words, what's been called in other wars "comfort camps." But  
15 at the same time, they were organized and run in such a way  
16 that they would terrorize the population.

17 And in many cases it has been documented, though there  
18 have not been as many judgments, have not reached the end of  
19 trial, there have been many documented cases and clear cases  
20 where the rape of Bosnian women seemed to be -- the aggressors  
21 in these cases, the Bosnian Serb soldiers, were trying to make  
22 what they called Serbian babies, which under the rules of  
23 genocide we would recognize as trying to change the  
24 demographic or racial composition, so to speak, of a  
25 population.

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1 Q By the middle of April of 1992, would informed citizens  
2 in Derventa be aware that this was occurring elsewhere in  
3 Bosnia?

4 A During April, the reports were there. By May and June,  
5 it would have been very clear. The reports were coming out  
6 from other parts of Bosnia that this was part of the strategy.  
7 And importantly, there was a lot of -- there was a lot of  
8 information shared among individuals. People would call  
9 people that they knew, relatives, they would hear about  
10 someone else, women would go missing, sons and men would go  
11 missing.

12 I should say, the international news media began to  
13 uncover these kinds of camps and these kinds of conditions, as  
14 well as the mass murder and the ethnic cleansing, from the  
15 outside. So within the first few months of the war, it was  
16 very clear to the internationals as well as many people in  
17 Bosnia what was going on.

18 Q What brought the war to an end?

19 A I'm sorry, can you repeat that?

20 Q Yes. What brought the war to an end?

21 A Well, the Bosnian Serb forces couldn't really control the  
22 territory that they had anymore. Croatia began to arm, and  
23 Croatia pushed the separatists in Croatia out and entered  
24 Bosnia.

25 At that point, Milosevic and the Bosnian Serb leadership,

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1 including Radovan Karadzic and General Mladic were both in The  
2 Hague right now. They realized that they weren't able to hold  
3 on to what they had, and so they went to the negotiating  
4 table; by that I mean the Dayton Peace Accords that came about  
5 in November of 1995.

6 Q And that basically allowed them to keep the Posavina  
7 corridor?

8 A It did. There were very intense negotiations at the  
9 Dayton Accords, and most of those negotiations had to do with  
10 holding on to enough territory. The Posavina corridor, what  
11 the Bosnian Serb leadership often referred to as the "corridor  
12 of life" or the "umbilical cord" of the Bosnian Serb nation,  
13 they argued that without it they could not exist, that they  
14 would be facing genocide, in their terms, and that they would  
15 do anything to protect it.

16 And I should point out that control over Doboj and  
17 control over Brcko on the other end of the corridor were the  
18 two reasons why the Dayton Peace Accords almost collapsed on  
19 many occasions. In fact, they could never come to an  
20 agreement on Brcko, and so they put the issue aside for  
21 further arbitration. That corridor and that territory was  
22 strategically the most important territory for the Bosnian  
23 Serb entity as it was created at Dayton.

24 Q There's been allegations that there were horrible war  
25 crimes committed by everybody, all the parties in this

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1 dispute, during the war. Evaluate that assessment based on  
2 your research and knowledge of the area.

3 A That assessment is sort of a summary that equivocates far  
4 too much. We have to remember that this idea of equivocation  
5 of all sides being equally guilty of starting the war, equally  
6 guilty of atrocities during the war, and so on, was created by  
7 the Serbian and Bosnian Serb leadership to hide that they were  
8 the clear aggressors at the start of this war.

9 So if we look at the facts, if we look at the evidence,  
10 and if we look at the cases thus far, the only organized plan  
11 that we can see, the only plan for organized violence and  
12 ethnic cleansing, to begin with started with the breakaway  
13 Bosnian Serb armed forces, the Bosnian Serb army, and the  
14 Croatian Serb Army, such as they became; that they had a plan  
15 to conquer territory through these forms of violence. That  
16 much is clear. And that, by and large, accounts for most of  
17 the atrocities that are known to have existed within the war.  
18 And if we look at the number of killed and missing, we see  
19 clearly the targets of the Bosnian Serbs were the ones who are  
20 disproportionately harmed by the war.

21 I should say that it's also the case that the Croatian  
22 forces occasionally engaged in activities that have been  
23 described as war crimes, and they've been convicted as such,  
24 though these tended to be smaller in scope and not part of the  
25 larger campaign.

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1 And the Bosnian army proper that was still trying to  
2 protect Bosnia as an integrated country also occasionally  
3 engaged in activities that were criminal in the sense of the  
4 war crimes, and they've been convicted of such.

5 But, again, this was not the overall strategy or the plan  
6 of the government in order to conquer territory. So my  
7 assessment is that that equivocates far too much.

8 Q You mentioned the Croatian military that also committed  
9 some atrocities. Was the HVO the Croatian military?

10 A The HVO was the Bosnian Croat militia. And they need to  
11 be understood as a distinct set of military units, distinct  
12 from the Croatian army proper.

13 The Croatian army proper entered in at the beginning of  
14 the war and at various points in the war and were decisive in  
15 bringing the war to a conclusion by invading Bosnia. And they  
16 oftentimes worked with their Bosnian Croat counterparts,  
17 supplied them with material and expertise and so on during the  
18 war. But that's the distinction of the battle among the Croat  
19 forces.

20 Q And at the beginning of the war, were Bosnian forces and  
21 Bosnian Croatian forces working together?

22 A Yes. That's an important part of the story. But Bosnian  
23 forces, meaning the government, the army of Bosnia, which I  
24 should point out claim to represent all Bosnians regardless of  
25 ethnicity or national identity, and was struggling to keep all

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1 of Bosnia together, to keep these breakaway regions from  
2 leaving the country.

3       Nonetheless, the army was largely abandoned by the  
4 Croatian units and, of course, the Serbian units. So at the  
5 beginning of the war, it was really a Serb army -- Bosnian  
6 Serb army campaign to conquer territory, and against that were  
7 these various forces that roughly identified as government, as  
8 local in many cases, without an ethnic identity, just a local  
9 defense force, and Croat, as well as some Croatian units at  
10 the beginning of the war that came in to try to stop the  
11 Bosnian Serb army. That changed.

12 Q     Yes. At the beginning of the war in Derventa, would the  
13 HVO unit there be considered the local government military  
14 unit?

15 A     They would be the local defenders to the extent that --  
16 to the extent that any of these guys locally were really  
17 looking for official credentials. Mostly what they saw was  
18 the coming of the Bosnian Serb army, and they were going to  
19 protect their town against what they had already seen happen  
20 in Croatia. Remembering that everybody in Bosnia had already  
21 seen the ethnic cleansing in Croatia, had seen the breakaway  
22 regions, and they knew what had happened there.

23       So the local unit in Derventa, like many places in  
24 central Bosnia, consisted of Croats and Bosniaks, and even  
25 some Serbs, who thought the defense of their town was more

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1 important than the nationalist causes of the Croat army.

2 Q And when during the war did the Bosnian Croats become  
3 hostile towards the Bosniaks?

4 A Really, by the end of 1992, this new front in the war had  
5 opened up between the Croats and the Bosniaks. It was clear  
6 that the war was going to last awhile, and Croatia was  
7 increasingly looking to also carve up Bosnia. So as a result,  
8 the government of Bosnia, representing at that point then  
9 really just the Bosniaks and some other loyal citizens of  
10 different ethnicities, was really alone in the campaign, and  
11 so then it became a three-sided war by January of '93. And  
12 that lasted for about a year and a half until the U.S.  
13 government formed an alliance between the Croats and the  
14 Bosniaks and the government of Bosnia to form a united front  
15 against the Serbs.

16 Q And final question, who represented the Bosnian Serb  
17 nationalists at the Dayton conference?

18 A Well, because by that point the Bosnian Serb leadership  
19 were wanted on criminal charges for war crimes, they were  
20 represented by Slobodan Milosevic of Serbia proper.

21 Q Who had been successful for a while in concealing his  
22 involvement from the beginning?

23 A Yeah. Charges against him were revealed later.

24 And I should say, on the Croat side, they were  
25 represented by Franjo Tudman, the president of Croatia.



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1 MS. SPENCE: Thank you. That's all the questions I  
2 have.

3 THE COURT: Thank you very much.

4 Mr. Heaphy, how long do you expect to be? Do you  
5 want to take a five-minute break?

6 MR. HEAPHY: Yeah, if that's all right, Your Honor,  
7 now would be a good time for me.

8 THE COURT: Why don't we stand in recess until 11:25.

9 (Recess taken from 11:14 a.m. until 11:32 a.m.)

10 THE COURT: All right, we're back on the record.

11 Are you ready to proceed, Mr. Heaphy?

12 MR. HEAPHY: Yes, Your Honor, I am.

13 THE COURT: I'm told by the interpreter, if you could  
14 kind of turn towards her so she could be able to pick up your  
15 voice.

16 THE INTERPRETER: Just slightly.

17 MR. HEAPHY: Certainly, Your Honor.

18 THE COURT: And you might want to slow down half a  
19 hair.

20 MR. HEAPHY: I've heard that before.

21 MS. SPENCE: One brief housekeeping.

22 THE COURT: Yes.

23 MS. SPENCE: In case I did not move the CV into  
24 evidence, I would do so at this time.

25 THE COURT: Very well. I think we've already

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1 introduced it as Defense Exhibit Number 1.

2 Mr. Heaphy, go ahead.

3 MR. HEAPHY: Yes. Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. HEAPHY:

6 Q Dr. Dahlman, good morning. Still morning.

7 A Good morning.

8 Q Can you see me and hear me okay?

9 A Yes. You?

10 Q I can. Thank you.

11 My name is Tim Heaphy and I'm the United States attorney.

12 And I just have a few brief questions for you.

13 A Certainly.

14 Q First let me just clarify, sir, that you do not have any  
15 specific familiarity with the allegations at issue in this  
16 particular proceeding, the allegations --

17 A I'm sorry, could you repeat that again? You trailed off.

18 Q I'm sorry. My question is whether you have any specific  
19 familiarity with, personal knowledge of the allegations  
20 involved in this extradition proceeding.

21 A Nothing other than what I've read in the statements that  
22 were provided in the complaint.

23 Q Okay. So you've read those documents, but have no other  
24 personal knowledge based on your travels or your study about  
25 these particular allegations?

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1 A Correct.

2 Q Okay. I want to ask you a little bit about geography,  
3 Mr. Dahlman. I know that's your specialty.

4 I think you testified in response to Ms. Spence's  
5 questions that the country of Bosnia-Herzegovina declared its  
6 independence or had a referendum which declared its  
7 independence in January of 1992; is that right?

8 A Correct.

9 Q That's when the country of Bosnia --

10 A Yes.

11 Q -- that exists to this day came into existence as a  
12 sovereign nation?

13 A I'm sorry, our connections are breaking up. Could you  
14 repeat that question?

15 Q Yes. I'm just clarifying that that entity that was  
16 created in January of 1992 is the same country, Bosnia, that  
17 continues to exist today and recognized by our government?

18 A Correct. Bosnia-Herzegovina continues as the recognized  
19 successor portion of Yugoslavia.

20 Q Okay. And within Bosnia-Herzegovina there are certain  
21 states, or republics, is that right, portions of the country,  
22 sort of like our state government systems?

23 A Again, I'm having interference on the line. Could you  
24 repeat that again?

25 Q Yes. I'm sorry, Dr. Dahlman. That's probably our

Dahlman - Cross

1 equipment here.

2 Is it so, sir, that within Bosnia-Herzegovina there are  
3 certain smaller regions or subgroups that have government  
4 entities?

5 A Currently, you mean?

6 Q Since 1992.

7 A Since -- during the course of the war, there were several  
8 declared subareas within Bosnia. The two main ones, or the  
9 three main ones during the war were the Bosnian Serb Republic  
10 that they declared in response to Bosnia's declaration of  
11 independence from Yugoslavia. These are the breakaway regions  
12 that I was referring to previously.

13 There was also then the government of Bosnia's assertion  
14 to the entire republic, which is also the state that remains  
15 today.

16 And then there was also a region that was declared to be  
17 HercegBosna, the Croatian or Croat portion of Bosnia that they  
18 declared during the years of '92 to '94 -- really, '93/'94,  
19 when they were fighting against the other two sides as well.

20 Q Okay. I understand.

21 And today in Bosnia there still remains -- there remains  
22 a Republic of Srpska within the larger government of  
23 Bosnia-Herzegovina; is that correct?

24 A Correct. Let me make clear, the Dayton Peace Accord in a  
25 way recognized this breakaway Bosnian Republika Srpska as one

Dahlman - Cross

1 of the two entities, and gave it -- gave each of the entities  
2 within Bosnia -- so Bosnia is divided into these two areas;  
3 one is this Republika Srpska. And these two entities have  
4 many state-like, that is to say national government-like  
5 powers. The government of Bosnia-Herzegovina as a whole is  
6 something of a thin umbrella over both of these two entities.  
7 The other entity, the federation, is made up of the government  
8 Bosniak areas and the Croat areas.

9 Q I see. So the Dayton Peace Accord essentially recognized  
10 a couple of those subentities within the umbrella as official  
11 states of or portions of the official government of  
12 Bosnia-Herzegovina?

13 A It created this new thing, the entity, as some smaller --  
14 something lower than a state but bigger than a locality.

15 Q And do those lower entities have their own processes,  
16 systems of government, kind of like a state government in this  
17 country?

18 A Yes. And in fact, for several years they even claimed to  
19 have separate forms of citizenship.

20 Q And some of that, sir, went back to 1992. You testified  
21 in response to Ms. Spence that those entities, particularly  
22 the Republic of Srpska, did exist and even claimed sovereignty  
23 as far back as the conflict?

24 A Republika Srpska declared itself independent and declared  
25 that it was sovereign, though it was not internationally

Dahlman - Cross

1 recognized as such.

2 Q Okay. The territory of Doboј that you talked about is  
3 within the Republic of Srpska; is that right?

4 A Most of that which was before the war, the municipality  
5 of Doboј, is now in Republika Srpska, including, most  
6 importantly, the city.

7 Q And back then it was part of that region which declared  
8 itself independent, the Republic of Srpska, correct?

9 A Yes.

10 Q And now, within the currently existing Bosnian  
11 government, it is in that carved-out, recognized-by-Dayton  
12 territory of Srpska, but also part of the larger government of  
13 Bosnia-Herzegovina?

14 A Right. It's within the entity of Republika Srpska. And  
15 of course, the Republika Srpska is within the whole of  
16 Bosnia-Herzegovina.

17 Q All right. Sir, you testified in response to  
18 Ms. Spence's questions about a series of conflicts that  
19 occurred during the war, primarily perpetrated -- offenses  
20 perpetrated by the Serbs, correct?

21 A Correct.

22 Q The vast majority, I believe, if I could summarize your  
23 testimony, of the ethnic cleansing, the war crimes were  
24 committed by Serbs?

25 A By Serb armed forces. I want to be clear here that I'm

Dahlman - Cross

1 just talking about the military units, because many civilians  
2 had no part to play in the war.

3 Q You're anticipating my next question.

4 So there were Serb military units that actually connected  
5 these awful crimes which you've described before, and then  
6 there were regular Serbs that had nothing to do with that,  
7 correct?

8 A Correct.

9 Q It's not as if every Serb or any person of any ethnicity  
10 was actively engaged in these hostilities?

11 A What we know is that not every person was engaged in the  
12 hostilities. The situation at the time was that no one was  
13 sure just how much of a mass mobilization there would be  
14 between the sides.

15 Q Now, I believe you testified in response to Ms. Spence's  
16 questions that there was a period of time when there was --  
17 there were skirmishes in Derventa that were -- between a joint  
18 military effort to hold the town and the Serbs that were  
19 trying to conduct the pattern of ethnic cleansing as you've  
20 described?

21 A Yes.

22 Q Okay. And, sir, were there roundups of Serbs and crimes  
23 committed by that force, the joint military effort, in  
24 response to or in anticipation of those Serb offenses?

25 A Well, I have to be very clear about where my sources of

Dahlman - Cross

1 information are. When I was there and spoke to people in  
2 Derventa, I had an extensive tour there by an international  
3 community member and spoke to many people who had been  
4 displaced from their home in the town, or who had returned to  
5 villages, or attempted to return; it was clear that roundups  
6 and imprisonment were a part of the military operations by  
7 both the Croatian forces in April, May, and June, and by the  
8 Serb forces in June, July, and afterwards.

9 Q Okay. So, sir, again, to summarize, correct me if I'm  
10 wrong, fair to say that in that initial battle for control of  
11 that community, there were roundups and crimes committed  
12 really by both sides that were fighting with each other for  
13 such control?

14 A As far as I had heard, yes.

15 Q Okay.

16 A Though I have to say the evidence has not been  
17 forthcoming because there have not been any sustained  
18 convictions on this basis.

19 Q Now, at some point there was an international tribunal  
20 created in part to resolve whether or not there were war  
21 crimes committed during the Bosnian war, correct?

22 A Correct.

23 Q I believe you told Ms. Spence that was called the  
24 International Criminal Tribunal for the former Yugoslavia?

25 A That is the short name for the ICTY, yes.



Dahlman - Cross

1 Q The ICTY. And part of the mandate of the ICTY was to  
2 review allegations of war crimes and either prosecute them in  
3 the international tribunal or serve as a gatekeeper for  
4 prosecutions by the local governments within that region; is  
5 that right?

6 A That was the -- that was the process, yes, either to try  
7 them in The Hague, at the ICTY, or to allow them to be  
8 prosecuted within one of the countries of the former  
9 Yugoslavia.

10 Q And as a matter of fact, in order for one of the  
11 countries of the former Yugoslavia to independently conduct a  
12 war crimes prosecution, that prosecution, the evidence  
13 supporting that prosecution has to be screened first by the  
14 international tribunal; isn't that correct?

15 A That was the case for many years, though the ICTY no  
16 longer does that.

17 Q I see. But during the period of time 2003, for  
18 example --

19 A Right.

20 Q -- that was the law, that in order for the Bosnian  
21 government to initiate a war crimes prosecution, it had to  
22 have been first reviewed by the ICTY?

23 A Yes, specifically by the prosecutor at the ICTY.

24 Q And the ICTY prosecutor paid particular attention to  
25 whether or not a particular war crimes allegation was a

Dahlman - Cross

1 political offense or was motivated by politics, correct? That  
2 was one of the factors considered by the ICTY?

3 A Correct.

4 Q Now, sir, you testified, I believe, that about the Geneva  
5 Conventions criminalizing torture; is that right?

6 A Correct.

7 Q The Geneva Conventions have been in effect since the  
8 1940s; isn't that right?

9 A 1949, yes.

10 Q We're going to change interpreters, Dr. Dahlman. Hold on  
11 one second.

12 A Sure.

13 Q So in 1949, the Geneva Conventions, which have been  
14 adopted by both the former Yugoslavia and those nations and  
15 the United States, made torture criminal under international  
16 law, correct?

17 A Correct.

18 Q And that applies, the Geneva Conventions specifically  
19 apply, do they not, in time of war?

20 A And that's the key point, is that these are -- the ICTY  
21 only covers and the war crimes prosecution in Bosnia only  
22 covers acts that were conducted as part of a war.

23 Q So acts proscribed during war by the Geneva Conventions  
24 include torture, the torture of civilians --

25 A Yes.

Dahlman - Cross

1 Q -- based on some claim of authority or ethnic  
2 persecution?

3 A Correct.

4 Q And just to be clear, that would be a violation of  
5 international law, despite the existence of a conflict from  
6 1949 to the present day?

7 A If it was conducted as part of a military campaign or  
8 military organization, it would not cover individuals --  
9 torturing individuals who were not part of a military  
10 campaign.

11 Q I see. Okay.

12 Now, you talked at the very beginning of your testimony a  
13 little bit about the different ethnic groups within the former  
14 Yugoslavia. One of which you talked about was the Serbs, who  
15 were primarily Orthodox. In terms of their religious  
16 affiliation, they're primarily Orthodox; is that right?

17 A Nominally, in the sense that that is how the group  
18 understands their identity. Whether or not they actually go  
19 to church every week is a whole other question.

20 Q I understand. Are you familiar with a particular symbol,  
21 a three-fingered symbol, that Orthodox, Serb Orthodox, sort of  
22 use or show as a religious significance, either while praying  
23 or as a symbol of religious belief?

24 A I'm familiar with that symbol, yes.

25 Q Can you show it to us? I think we can all see you. If

Dahlman - Cross

1 you can, with your hand, show us the symbol.

2 A (Indicating.) The Chetnik salute.

3 Q Dr. Dahlman is holding up his hand extended, with his  
4 thumb, index, and middle finger.

5 And tell us, if you can, sir, what is the significance of  
6 the three fingers? What do they symbolize?

7 A Well, they are a variation on the three fingers that are  
8 used in signing oneself. But this is religious.

9 (Indicating.) This is nationalist politics. (Indicating.)

10 Q I see. So if a Serb holds up the three-fingered symbol,  
11 it's a religious symbol, it's a nationalistic symbol, it's a  
12 symbol of national significance?

13 A It would be typically understood that way, yes.

14 Q And what is the significance of the number three or of  
15 the three fingers as opposed to four or five?

16 A The tripartite God, the three points at the top of the  
17 cross, and so on. I don't think there's an official  
18 explanation of it, it's a cultural understanding of it.

19 Q And that goes back, sir, before the Bosnian conflict,  
20 this three-fingered symbol?

21 A Yes. In fact, the political use of that appears to go  
22 back into the early 20th century.

23 MR. HEAPHY: Your Honor, just briefly, if I can have  
24 the Court's indulgence.

25 Dr. Dahlman, I don't have any other questions for

Dahlman - Cross

1 you. Thank you, sir.

2 THE COURT: Dr. Dahlman, let me ask just a couple of  
3 questions to make sure I'm clear on a couple of things.

4 THE WITNESS: Certainly.

5 THE COURT: With respect to the Republic of Srpska,  
6 you indicated that it declared its independence in early 1992;  
7 is that right?

8 THE WITNESS: That's correct. In fact, they had  
9 begun to organize their independence in late 1991, but it was  
10 formalized in the political act in 1992.

11 THE COURT: How did they formalize their  
12 independence?

13 THE WITNESS: They made declarations of their  
14 independence; they named people in the positions of authority,  
15 such as president, vice president, and so on; they established  
16 over time a -- they didn't have elections, but sort of a house  
17 of representatives, a kind of body of delegates mostly made up  
18 of members of the Serb Democratic Party; they tried to take  
19 greater control over the military units that were on their  
20 territory, establish security centers, and promulgated and  
21 made decrees to that effect.

22 THE COURT: And what relationship, if any, did it  
23 have with the independent state of Bosnia that formed in  
24 January of '92, that was recognized by the international  
25 community?

Dahlman - Cross

1 THE WITNESS: Well, the Republika Srpska existed on  
2 the territory of Bosnia-Herzegovina, and so its declaration of  
3 independence was to say that they were seceding from Bosnia,  
4 that they were breaking away and they were going to take the  
5 territory with them.

6 THE COURT: And what did the Dayton Accords do with  
7 respect to the Republic of Srpska?

8 THE WITNESS: Well, I have to say the somewhat  
9 perverse effect of the Dayton Peace Accord was to give some  
10 recognition that this breakaway entity would form part of the  
11 formal governance structure of post-war Bosnia-Herzegovina.

12 THE COURT: And what effect did the Dayton Accords  
13 have on any action that was taken -- any political action,  
14 state it that way, that was taken by the Republic of Srpska  
15 from when it declared its independence in '92 up until the  
16 Dayton Accord?

17 THE WITNESS: Well, the Dayton Peace Accord -- if I  
18 understand your question correctly, it's what did the peace  
19 accord do about any actions that occurred from '92 until the  
20 Dayton Peace Accord?

21 THE COURT: Right. You stated it better than I did.  
22 That's exactly right.

23 THE WITNESS: Okay. Well, the Dayton Peace Accord  
24 also provided for a number of provisions to address the war  
25 itself. One of those was, of course, that war crimes

Dahlman - Cross

1 conducted during that time would need to be prosecuted.

2           However, the war itself, if you want to think about  
3 the attempt to politically create and to defend these  
4 territories, was not necessarily criminalized, only violations  
5 of these major treaties that occurred at that time. And those  
6 would have to go off to The Hague, and in time they could also  
7 be prosecuted in Bosnia, as it turned out.

8           So it didn't necessarily absolve anybody of what  
9 happened during the war, except to say that the general crime  
10 of aggression that sometimes exists in international law would  
11 not be held against the Republika Srpska in trying to  
12 establish its independence.

13           THE COURT: Well, what effect did it have with  
14 respect to any prosecutions that were begun before the Dayton  
15 Peace Accord by the Republic of Srpska?

16           THE WITNESS: It left those in something of a limbo.  
17 And I think a huge part of what the courts have had to deal  
18 with in Bosnia is, first of all, gaining competency, removing  
19 themselves from the Communist system, in which they were a  
20 part of the political system, as the justices and prosecutors  
21 in 1992 through 1995 were still very much a part of that old  
22 system. And so they had -- there's been a lot of time and  
23 attention and money spent to reform the court system, to  
24 establish a truly independent judiciary, which means that any  
25 crimes that were alleged during that time would have to be

Dahlman - Cross

1 looked at very carefully in the postwar scene to make sure  
2 that they were up to the standards expected of the postwar  
3 Bosnian government and its courts.

4 Does that make sense?

5 THE COURT: It does. And I appreciate that.

6 But did the postwar Bosnian government and the Dayton  
7 Accord recognize any prosecutions that were begun through the  
8 Republic of Srpska during -- or before the Dayton Peace  
9 Accords came into effect? That was '92 to '95.

10 THE WITNESS: No, I'm thinking through a very long  
11 treaty text here, and I think the Dayton Peace Accords may be  
12 relatively mute about the merit of any individual case, except  
13 to say that the law that existed in Bosnia was the republic  
14 law that it had during the socialist period, and that any laws  
15 passed after that date would have to come under the scrutiny  
16 of the new constitution established by Dayton, because Dayton  
17 also established a new constitution.

18 So maybe I can give you a bit of a hypothetical about  
19 where this becomes problematic. A crime that might have been  
20 committed in 1992 could have been prosecuted under the old  
21 Yugoslav socialist law, which has legitimacy in the eyes of  
22 the international community, unless it's replaced by  
23 subsequent constitutional law after '95.

24 However, in 1992, the Serb Republic began passing its  
25 own laws, and the status and the qualifications of those laws



Dahlman - Cross

1 have had to come under scrutiny. That is to say wartime law  
2 has had to come under the scrutiny of the court established  
3 after 1995, to make sure that it's in keeping with the  
4 constitution. And in many cases it has not been in keeping  
5 with the constitution established at Dayton.

6 THE COURT: All right.

7 THE WITNESS: I apologize that it gets so complex.

8 THE COURT: No, I appreciate that.

9 Let me shift to a couple questions that Mr. Heaphy  
10 asked with respect to the Geneva Conventions and war crimes  
11 committed as part of an act of war.

12 Is it my understanding that the actions that were  
13 taken and were classified as war crimes, were classified as  
14 war crimes during the early part of the war in '92? Is that  
15 correct? The actions specifically as referenced by Ms. Spence  
16 in many of her questions about what occurred in Bosnia, and  
17 specifically in Doboje and Derвента.

18 THE WITNESS: I see. The statute of the ICTY applies  
19 the articles of the different conventions, and it specifically  
20 establishes a beginning date, in terms of the jurisdiction of  
21 the court, 1991. So it's only interested in events relating  
22 to the conflict in the former Yugoslavia since 1991.

23 THE COURT: Okay. All right. I think my last  
24 question is, it is my understanding that this three-fingered  
25 salute that you talked to Mr. Heaphy about, is it solely a

Dahlman - Redirect

1 nationalistic or is it a nationalistic and a religious symbol?

2 THE WITNESS: Well, the two variants that I  
3 understand -- as I said, one is to cross oneself like this,  
4 with the fingers closed. (Indicating.) The nationalist  
5 salute turns it this way. (Indicating.) And there is  
6 something of a culture of rather finessed hand gestures, as  
7 there are in many cultures, in the former Yugoslavia. And  
8 that nationalist Croatians from the World War II period had a  
9 symbol that was like this, that also looked similar to the  
10 religious symbol --

11 THE COURT: And you're holding your index and middle  
12 finger in that regard, correct?

13 THE WITNESS: Two fingers, yes.

14 And that somewhat nationalistic Bosniak and Bosnians  
15 today, we use a five-fingered salute like this. (Indicating.)

16 THE COURT: And you're holding up your open hand.

17 All right, that's all the questions I have. Thank  
18 you, Dr. Dahlman.

19 Ms. Spence, do you have any follow-up?

20 MS. SPENCE: Yes, I do.

21 THE COURT: All right.

22 THE WITNESS: Would you be able to move the camera  
23 back to the lectern, please? Thank you.

24 REDIRECT EXAMINATION

25 BY MS. SPENCE:

Dahlman - Redirect

1 Q After Dayton, could the state Republic of Srpska  
2 independently, without the approval of Bosnia as a whole,  
3 prosecute a war crime?

4 A No.

5 Q So anything that had been done by the Republic of Srpska  
6 wouldn't be sufficient to start a Bosnian prosecution; is that  
7 correct? Anything that had been done by Republic of Srpska  
8 before Dayton would not be sufficient to start a Bosnian  
9 prosecution?

10 A Any charge of war crimes by Republika Srpska authorities  
11 would not be sufficient to start a local case. They would not  
12 have the authority. It was taken over by the ICTY; it would  
13 have to go through their permission, until that law changed  
14 about eight years ago.

15 Q Now, you indicated that the ICTY screened the cases  
16 before allowing local prosecution to proceed?

17 A Correct.

18 Q Were they specifically investigating to see if things  
19 were politically motivated, or just checking to make sure  
20 there was real evidence to reduce the risk of politically  
21 motivated prosecutions?

22 A Both. Part of their responsibility was to make sure that  
23 cases that had a major bearing on establishing factual  
24 evidence or handling large crimes, that they should stay at  
25 The Hague and not be tried locally. It was also a situation

Dahlman - Redirect

1 of wanting to make sure that the substance and evidence was  
2 sufficient and that it was not politically motivated coming  
3 from Bosnia.

4 Q On the cases that they authorized just for local  
5 prosecution, they actually independently investigated them, or  
6 just relied on the submissions from the prosecutor?

7 A I'm thinking through the cases that I know.

8 They have -- the ICTY has had extensive investigations  
9 within Bosnia, and whether they would send separate  
10 investigators for each case or whether they would rely upon  
11 their underlying knowledge of the events in different parts of  
12 the country in which they have extensive evidence already -- I  
13 couldn't say exactly what they do, but I know in several cases  
14 that they would look specifically at the evidence to see if it  
15 passed a basic test that they have, but I don't know exactly  
16 what that test would be. And if I understand the memoirs of  
17 the prosecutor, that test changed over time.

18 Q Becoming less stringent over time?

19 A This being the first time that a major war crimes trial  
20 institution like this had been created, there was a lot of --  
21 I don't want to say legal innovation, but there was a lot of  
22 new territory to figure out exactly what best practices should  
23 be. I don't know whether they became more or less stringent.  
24 The prosecutor's office was sometimes seen as highly  
25 politicized itself, in the sense that there was a lot of

Dahlman - Redirect

1 international legitimacy placed on the court, and that this  
2 played into the diplomatic regulations and the peacekeeping  
3 efforts back in the region.

4 Q With the screening process, if the ICTY declined  
5 prosecution but gave the green light for the locality to go  
6 forward, did that mean they had made any determination --

7 A No.

8 Q -- of guilt or innocence?

9 A No.

10 Q So to make sure I'm clear, any actions taken by the  
11 self-declared entity of the Republic of Srpska between '92 and  
12 Dayton in November of '95 would not be official acts of the  
13 state of Bosnia?

14 A Correct.

15 Q And only the state of Bosnia has the authority to  
16 prosecute war crimes post Dayton?

17 A And specifically, only the war crimes chamber and the  
18 office of the prosecutor, established some years after Dayton,  
19 when the international community deemed that they were -- they  
20 had a sufficiently independent judiciary, that they had a  
21 sufficiently competent set of state prosecutors, and that they  
22 could -- that they could ultimately handle these cases and  
23 carry out justice in a meaningful way.

24 MS. SPENCE: Thank you.

25 THE COURT: Thank you, Ms. Spence.

Dahlman - Recross

1 Mr. Heaphy, does that prompt any additional  
2 questions?

3 MR. HEAPHY: That last area does, Your Honor.

4 RECROSS-EXAMINATION

5 BY MR. HEAPHY:

6 Q Dr. Dahlman, hello again.

7 So when Dayton occurred, it was aware that -- the folks  
8 that crafted the Dayton Accords were aware that there were  
9 allegations from the war about all kinds of terrible  
10 atrocities that occurred on both sides; isn't that right?  
11 That was an explicit part of the discussion with respect to  
12 the Dayton Accords?

13 A And in fact, the Dayton Accords have been criticized for  
14 being intentionally blind to the allegations, choosing  
15 instead, in the words of Holbrook, the ambassador, the U.S.  
16 ambassador that helped to negotiate it, it was just to end the  
17 war; it was not meant to carry out justice.

18 Q But rather than provide an amnesty, for example, the  
19 Dayton Accords contemplated a process, international process,  
20 by which these preexisting allegations of war crimes would be  
21 evaluated and adjudicated by an impartial group of folks?

22 A Well, in fact, it already had the ICTY, which had been  
23 established in '93, in the course of the war, precisely  
24 because each of the politicians was claiming that it was the  
25 other side carrying out the atrocities. So the ICTY was

Dahlman - Recross

1 already established at that point, and Dayton had merely to  
2 say these things shall be sorted out there.

3 Q Exactly. So Dayton said, "All these allegations of war  
4 crimes, we're going to send them to the ICTY, and we're going  
5 to let that body that is international and legitimate sort  
6 them out." It was not for stuff that was going to occur in  
7 the future; it was explicitly contemplating stuff that had  
8 occurred in the past?

9 A It had to, because there were so many allegations and  
10 politically motivated allegations and allegations that were  
11 known to be false or claimed to be false, that that would have  
12 impeded any kind of peace negotiation. And so they knew that  
13 The Hague would get to the bottom of whether a particular  
14 charge was sufficient or not.

15 But at that time, I don't know of anybody ever imagining  
16 that Bosnia would be able to prosecute war crimes trials in  
17 Bosnia.

18 Q But it was an important part of ending the war, that  
19 these war crimes allegations were going to be resolved or  
20 handled by some authority?

21 A Correct.

22 Q They were not just essentially wiped clean: "We're not  
23 going to worry about that, we're only going to look forward"?

24 A Correct. So that they would not be -- so that they would  
25 not continue to be the grist of nationalist politicking and

Dahlman - Further Redirect

1 conflict within Bosnia.

2 MR. HEAPHY: Yeah. Okay. That's all I have.

3 THE COURT: Thank you very much, Mr. Heaphy.

4 MS. SPENCE: I'm sorry.

5 THE COURT: It's your witness; you can close,  
6 Ms. Spence.

7 FURTHER REDIRECT EXAMINATION

8 BY MS. SPENCE:

9 Q So after November of 1995, at any time Bosnia could have  
10 begun a prosecution as the state of Bosnia for war crimes?

11 A No. It was not until they had a clear establishment of  
12 the war crimes court in Bosnia, which I want to say started in  
13 maybe as early as '03, '04, was when that capacity came into  
14 formation. So for several years after '95, Bosnia had no  
15 capacity or authority to try war crimes.

16 Q Did they have the capacity to initiate review at the  
17 ICTY, to ask something be investigated?

18 A Yes, I think they could. In fact, they were obligated to  
19 hand those cases and that information over to ICTY  
20 investigators.

21 Q As of November 1995?

22 A Yes.

23 MS. SPENCE: Thank you.

24 THE COURT: All right. Dr. Dahlman, thank you very  
25 much.



Pelesic - Direct

1           What do we need to do?

2           THE CLERK: Just need to disconnect.

3           THE COURT: We're going to disconnect you.

4           Are we done with Dr. Dahlman?

5           MR. HEAPHY: Yes.

6           THE COURT: Thank you very much, Dr. Dahlman. We  
7 appreciate your time. We appreciate you participating in  
8 today's events.

9           THE WITNESS: You're welcome.

10          THE COURT: Thank you.

11          All right, Ms. Spence, call your next witness.

12          MS. SPENCE: I call Alan Pelesic.

13          THE COURT: Will he need the assistance of an  
14 interpreter?

15          MS. SPENCE: I don't believe so.

16          THE COURT: All right. Come on over here, sir, and  
17 step up and be sworn.

18          THE WITNESS: Where would you like me?

19          THE CLERK: Raise your right hand, please.

20          ALAN PELESIC, WITNESS FOR ALMAZ NEZIROVIC, SWORN

21          THE WITNESS: Good morning, Your Honor.

22          THE COURT: Good morning. If you could state your  
23 full name and spell it slowly and completely so we can get it  
24 on the record.

25          THE WITNESS: My name is Alan Pelesic, A-L-A-N,

Pelesic - Direct

1 P-E-L-E-S-I-C.

2 THE COURT: Thank you very much.

3 All right, Ms. Spence.

4 DIRECT EXAMINATION

5 BY MS. SPENCE:

6 Q Good morning. Where do you live now?

7 A I live in Utica, New York.

8 Q How long have you lived there?

9 A A little over 14 years.

10 Q How old were you when you moved to New York?

11 A I was 24 years old.

12 Q Where were you born?

13 A I was born in Derventa, Bosnia, in Herzegovina.

14 Q Are you now a United States citizen?

15 A Yes, I am.

16 Q I want to turn your attention to 1992. How old were you  
17 then?

18 A In 1992, I was 18 years old.

19 Q What section of Derventa did you live in at that time?

20 A I lived in the area called Cardak, referred to as Cardak.

21 Q Now, what were the military obligations, if any, of  
22 citizens in Bosnia at that time?

23 A Every able-bodied male age 18 through 55 was obligated to  
24 be, basically, part of Yugoslavia National Army Reserves,  
25 meaning that at the age of 18, they were obligated to serve

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1 one year in the military, obtain training; and then any period  
2 of time between then and the age of 55, they could have been  
3 called by the Yugoslavia National Army to protect the country.

4 They were also obligated to obtain training by the army  
5 periodically; sometimes every year, sometimes every couple of  
6 years, they were called in to perform military duties,  
7 basically to stay current on military training.

8 Q And did everybody always get called for this military  
9 training, or did it appear selective?

10 A In the times -- during the times prior to the -- to the  
11 1991, everybody did. In the time when 1992 approached, or  
12 1991/1992, it appeared that mostly the Serbian nationality  
13 people were called in; more than anybody else, they were  
14 called in. And upon their return, immediately prior to 1992,  
15 for the first time it was noticed that they were returning to  
16 homes, bringing back their weapons issued by the army, and  
17 they were able to keep them at home.

18 Q Did there come a time when you observed some behavior in  
19 your neighborhood, Cardak, that was different from before?

20 A Yes. Traditionally, Cardak was a very peaceful  
21 neighborhood regardless of nationality or origin. Everybody  
22 who lived there, everybody was treated equally, very peaceful.

23 Towards the end of 1991 and beginning of 1992, people who  
24 lived on the area of Cardak that were like Serbian origin or  
25 nationality, they started to kind of act like more -- they

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1 started excluding people of other nationality out of their  
2 activities. It seems like there have been meetings taking  
3 places that everybody who was not of Serbian nationality was  
4 not welcome to attend.

5 And we also noticed other changes towards the 1992, like  
6 period of -- the end of March and beginning of April of 1992.  
7 Serbian nationality, our neighbors, sent their wives and their  
8 children outside of the area for some reason. It was felt  
9 that they're basically -- in anticipation of problems, they  
10 wanted their families to be safe, so they sent them outside of  
11 the area of Cardak and outside of the area of Derventa.

12 Q Were the Bosniak or Croatian residents sending their kids  
13 and families away at that time?

14 A Some people anticipated problems. Based on their  
15 knowledge of what was going on in the country, from the news  
16 and TV, people anticipated there is a possibility that there  
17 could be problems in the immediate area where we lived. So  
18 some people did, on a smaller -- on a smaller scale than the  
19 Serbs in the neighborhood.

20 Q What else did you start noticing in April of '92?

21 A I noticed that the trucks of the Yugoslavian National  
22 Army, their motorist vehicles, transporting goods and  
23 materials into the area of Cardak. We did not know in the  
24 beginning what it was, but never before have cases like that  
25 been happening, that had been happening. So we noticed

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1 military trucks coming into the neighborhood, going to  
2 specific locations, and then returning back.

3 We noticed that our neighbors started arming themselves.  
4 We noticed that they organized checkpoints in the  
5 neighborhood. And in the beginning, they led us to believe  
6 that we were welcome in these activities. In the beginning,  
7 they lead all of us non-Serbs to believe that we are in this  
8 together, and if there is ever any problem or alarm in our  
9 neighborhood, we are going to protect our neighborhood from  
10 this enemy who nobody ever really had an idea who it was going  
11 to be.

12 But then as April 1992 approached, suddenly they withdrew  
13 themselves from Croats and Bosniaks and, basically, they just  
14 organized their own checkpoints. I noticed in my neighborhood  
15 that they started building sniper nests right across the  
16 street from my house. My next-door neighbor, in the attic of  
17 his house, we noticed that he built areas in anticipation of  
18 like an armed military, military action of some sort.

19 And they became increasingly secretive towards us. And  
20 if we inquired about something, it came to a point where they  
21 were also hostile, saying, "I cannot discuss this with you.  
22 You are not part of it. If you were supposed to know, you  
23 would have been notified, so please stay out of it, and don't  
24 ask me questions of that nature anymore."

25 Q When did you start hearing grenades, bombs, gunfire?

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1 A It would have to be towards the end of the month of  
2 March, we heard grenades from the town that was about 25  
3 kilometers north of Derventa. The town was called Bosanski  
4 Brod. We heard loud explosions at night. We could even see  
5 fires at night. We could see the sky light up from  
6 explosions.

7 We became -- we came to know that they were -- that  
8 somebody was targeting the oil refinery in Bosanski Brod, so  
9 we started hearing explosions about 25 kilometers away about  
10 the end of or the second part of March. As the time  
11 progressed, the explosions came closer and closer and closer,  
12 and around, I would say, first of or mid April the explosions  
13 started targeting the immediate areas where we lived.

14 Q And at that point, what did you do for your safety?

15 A We couldn't do much. In the beginning, when we were part  
16 of these checkpoints, safety checkpoints with Serbs, we would  
17 basically stand outside at night and monitor the area, you  
18 know, basically just doing guard duty without any arms and  
19 none of that.

20 As the explosions started closing up on our house, the  
21 only smart thing and only thing we could do was to hide in a  
22 safe area within our house, which were mostly basements. And  
23 we were hiding from the grenades, not wanting to be killed or  
24 injured.

25 Q I want to draw your attention specifically to on or about

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1 April the 18th. Were you hiding in a basement at that time?

2 A On and off, yes. There were parts of the day when the  
3 bomb shelling was intense. We were in the basement. Then if  
4 it let up and we needed water or food, I would leave the  
5 basement for a short period of time, grab what I needed, go to  
6 the bathroom, and come back. So, yes, mostly I was.

7 Q And did you hear or see anything that day when you left  
8 the basement?

9 A Yes. During the day, I saw a large construction truck  
10 being taken over by our neighbors. They dragged the driver  
11 out and they took the vehicle, parked it at the bottom of my  
12 street, which -- they parked it on the street called Ulica  
13 Prvoj Maja, which was the main artery between Doboј and  
14 Bosanski Brod. And Derventa was right in the middle of it.  
15 So by blocking that street, the truck was positioned so to  
16 deny access to anyone traveling that road. It was our  
17 neighbors, they put the truck there.

18 And later on that day, we heard small-arms fire coming  
19 from that area, and loud screaming and yelling. And my father  
20 and I, we were in the house at that time. We left the  
21 basement shortly to see what was going on, because we heard  
22 the bullets flying and everything. We looked and we seen a  
23 small group of our neighbors, four or five neighbors, walking  
24 past our house, and leading -- leading another person while  
25 they were hitting him with their rifles and kicking him and

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1 punching him in the face, screaming like racial slurs and  
2 swearing at him. They led him past our house, and then I went  
3 back into our basement.

4 Q In addition to the racial slurs that they were screaming,  
5 did you hear anything else that they said?

6 A If you would like me to quote what they said, I can, but  
7 it was very strong swear words.

8 MS. SPENCE: With the Court's permission.

9 THE COURT: No objection.

10 A They were -- I really don't feel comfortable saying it  
11 because there's people here. But anyway, they were saying,  
12 "You fucking motherfucker. We'll fuck your mother. You want  
13 independent Bosnia? Here you go," and in that context. All  
14 of them -- there was a group of four or five leading him  
15 around. They were hitting him and saying all of this stuff in  
16 the course of doing that.

17 BY MS. SPENCE:

18 Q And those were people that you recognized as Serbian  
19 neighbors of yours in Cardak?

20 A Those were people that I saw around the city, because my  
21 city was small, and pretty much everyone knew everyone,  
22 like -- and some of the people that lived there were the  
23 people who I seen walking by my house on a daily basis, so  
24 they lived in the immediate neighborhood.

25 Q Did there come a time that you started staying in a



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1 neighbor's basement instead of your own?

2 A Yes. Small-arms fire intensified within a few hours from  
3 what we witnessed, and also the grenade attacks intensified as  
4 well. And our basement wasn't exactly a basement. It was --  
5 it was dug in maybe about a foot and a half, so we felt that  
6 if a grenade hit close enough, we were not really that well  
7 protected.

8 So our neighbor two houses away from our house came over  
9 and said, "My basement is safer, and there's some other of our  
10 neighbors with us in my house already." He said, "If you  
11 would like -- if you feel safer, if you would like to come and  
12 join us, you're welcome to stay with us in our basement."

13 So we chose an opportunity when there was no fighting  
14 going on, and we ran to his basement, and that's where we took  
15 refuge for the next period of over maybe three days or so.

16 Q And what -- did you see anything happen to your neighbor  
17 at that time?

18 A Yes. What happened next was the street fighting  
19 intensified. Suddenly -- the grenades falling around were  
20 breaking and shattering all the glass around. So by the sound  
21 of people running around the house in which basement we were,  
22 we heard people running around, screaming, giving each other  
23 directions, shooting firearms, grenades were falling. We knew  
24 something was going on, so we were in the basement.

25 The house owner's mother-in-law, she was 90-plus years

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1 old, she was upstairs. She refused to come downstairs in the  
2 basement. So we heard her walking around the house, and the  
3 owner of the house decided to try to go upstairs and tell her  
4 to be quiet because -- or to try to convince her to come into  
5 the basement because fighting was taking place.

6 He opened the basement door in order to go around and go  
7 upstairs to the first floor. As soon as he opened the door,  
8 somebody noticed him. And they said, "Hey you, come over  
9 here."

10 And he said, "It's me, Becir (phonetic). Don't you  
11 recognize me?"

12 They said, "Come over here, I said."

13 He said, "I'm unarmed. My hands are up in the air." And  
14 we heard by the glass shards in the front yard that he made a  
15 couple of steps. He said, "I'll stand right here next to this  
16 blue bin." And as soon as he made two steps, we heard two  
17 shots, and we heard him scream, "Aah," and then fell down.

18 Then we heard some more running around. We closed the  
19 basement door because we didn't know what was going to happen  
20 next. There was some soldiers running through the yard, back  
21 and forth. We knew that he was injured or dead. We were  
22 scared and did not want to go out and see what happened.

23 We never heard of him again.

24 But a couple of days later when we left the basement, we  
25 all had to step over his dead body. He was killed in front of

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1 his house, unarmed, with his hands up in the air, two rounds.

2 Q Now, I want to ask you about the people that you saw  
3 running around over the various days. Were they armed?

4 A Yes.

5 Q With what?

6 A With automatic weapons. AK -- Yugoslavian-made rifles,  
7 assault rifles.

8 Q Were they wearing any uniforms?

9 A No. No. They were dressed in regular clothing like you  
10 and I. In fact, I witnessed my next-door neighbor walking up  
11 to the house where one of those trucks before delivered goods,  
12 and walking out with a brand-new rifle, assault rifle, oil  
13 dripping from it.

14 And I said -- I was still thinking that this is this  
15 mutual spirit, we're all trying to defend ourselves from this,  
16 we don't know what enemy.

17 I said -- his name was Miso. I said, "Miso, where did  
18 you get that gun? I would like to get some for me and my dad.  
19 We don't have anything." I said, "We want to defend ourselves  
20 too."

21 He said, "If you were supposed to know, you would have  
22 been told so." He said, "You need to not ask me any more  
23 questions about this."

24 I was appalled and shocked. I said, wait, this is my  
25 next-door neighbor. I grew up with his two children. We

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1 played, day in/day out, from four or five years old. We  
2 helped him, he helped us anytime. We were closer than family.  
3 All of a sudden he tells me something like that.

4 So, no, they were not in uniforms, but they were heavily  
5 armed.

6 Q And when you -- you mentioned when you left the basement  
7 and you had to step over his body, where did you go?

8 A We spent about three days in the basement without food,  
9 water, anything. We didn't even have the bathrooms or  
10 nothing. We were petrified from what was going on. There was  
11 adults with us. I think I was the only child -- not a child,  
12 18-year-old. So the elderly, they decided that the best thing  
13 for us to do would be to try to walk to our local hospital.

14 So we built a white flag, formed a line, and we -- at  
15 this point, we didn't even care if we were going to get killed  
16 or not. We decided to take our chance and try to make it to  
17 the local hospital. So we opened the door when everything was  
18 quiet, left the basement, and walked about I would say four  
19 and a half, five miles to make it to the hospital. We walked  
20 through the whole neighborhood and made it to the hospital  
21 safely.

22 Q And from the hospital, where did you go?

23 A At the hospital, there were many, many people gathered,  
24 who probably got the same idea they could get shelter and  
25 basic needs there. There was a lot of our neighbors, a lot of

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1 other people from other parts of town. Women and children  
2 were put in trucks and driven to Doboj, and from there,  
3 everybody was trying to make a connection with their family  
4 elsewhere, just to leave the Derventa area.

5 And I had my grandma with me and my mother, so my father  
6 and I made a decision that I will travel with them through  
7 Doboj deeper south, into the southern part of Bosnia that was  
8 peaceful at that time, where we had family. And that I would  
9 bring my mother and my elderly grandmother to our family in  
10 Zenica (phonetic), which is south of Derventa. And that's  
11 what we did.

12 My father stayed there. I got on a truck with my mother  
13 and my grandmother, and we made it to Zenica. The day before  
14 the town of Doboj was also, we heard, occupied.

15 MS. SPENCE: Thank you. I don't have any other  
16 questions.

17 THE COURT: Thank you, Ms. Spence.

18 Mr. Heaphy, cross-examine?

19 MR. HEAPHY: I don't. Thank you, Your Honor.

20 THE COURT: Thank you very much.

21 THE WITNESS: If I may say one thing before I leave?

22 THE COURT: Hang on a second. You don't get to offer  
23 evidence.

24 THE WITNESS: No, it's not evidence.

25 THE COURT: I know. But you may want to talk to

Sipic - Direct

1 Ms. Spence before you --

2 (Discussion off the record between Ms. Spence and the  
3 witness.)

4 THE WITNESS: What I wanted to say is, I appreciate  
5 the United States and this Court taking time and all its  
6 effort to offer Almaz Nezirovic a fair chance to show that he  
7 is -- I just want to thank all of you here for giving us this  
8 opportunity to speak up for justice for this man. That's all  
9 I wanted to say.

10 THE COURT: Thank you very much.

11 THE WITNESS: Thank you.

12 THE COURT: All right. All right, Ms. Spence, call  
13 your next witness.

14 MS. SPENCE: Maid Sipic.

15 THE COURT: Will he need the assistance of an  
16 interpreter?

17 MS. SPENCE: Yes, at least at times.

18 THE COURT: All right. Stand and be sworn, sir.

19 MAID SIPIC, WITNESS FOR ALMAZ NEZIROVIC, SWORN

20 THE COURT: Mr. Sipic, first of all, state your full  
21 name and spell it for court reporter.

22 THE WITNESS: Your Honor, my name is Maid Sipic.  
23 M-A-I-D. Last name Sipic, S-I-P-I-C.

24 THE COURT: We have an interpreter here for you. Do  
25 you want her to interpret for you full-time?

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1 THE WITNESS: I understand perfectly, but sometimes  
2 my accent, probably you have trouble with me.

3 THE COURT: All right. When you need assistance, you  
4 let the interpreter know. And if we need some assistance,  
5 we'll ask her for help as well.

6 Go ahead, Ms. Spence.

7 DIRECT EXAMINATION

8 BY MS. SPENCE:

9 Q Good afternoon, Mr. Sipic. What city and state do you  
10 live in now?

11 A (In English) I live in Colorado, Aurora.

12 Q And how long have you lived there?

13 A (In English) I lived from May 1998.

14 Q Are you a U.S. citizen now?

15 A (In English) Yes, from December 6th, 2004.

16 Q Where were you born?

17 A (In English) I was born in Derventa.

18 Q And turning your attention to 1992, were you living in  
19 Derventa then?

20 A (In English) Yes.

21 Q What kind of work did you do at that time?

22 A (In English) I work in the city, most military  
23 administration.

24 Q When did you first notice any indication of violence in  
25 Derventa?

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1 A (In English) Probably end of March, maybe early April  
2 1992.

3 Q What did you notice?

4 A (In English) By night we heard -- where were most  
5 Serbian people live, by night, shooting, snipers shooting and  
6 this kind of stuff. But nothing major, you know.

7 Q And then what did you notice next?

8 A (In English) One day, Serbian artillery, who was located  
9 maybe a few miles outside the city, started shooting at a  
10 building, mostly Croatia and Bosnian people. It was maybe  
11 heavy artillery, more than two hours.

12 Q I want to turn your attention to April the 18th of '92.  
13 Did anything happen that day?

14 A (In English) Yes. After this heavy artillery in April  
15 1992, I go with my friend in car after my grandma -- after she  
16 was -- went in the house, without her. In city, where it is  
17 bad for city, Cardak, it was a big construction truck close  
18 city. But before, when we drive there, we drive very fast  
19 because we were scared for sniper shooting. We drive very  
20 fast, almost across -- we saw big truck. My friend hit in  
21 truck. Same second, somebody -- sniper hit him in face and  
22 his face blow in my face. Same second, I jump from car, they  
23 start shooting, maybe 30 minutes. I got behind car. I got  
24 shot in leg because I couldn't hide my leg behind tire from  
25 car.



Sipic - Direct

1 Q And then what happened?

2 A (In English) He was shooting probably 30 minutes.  
3 Suddenly everything stopped. When I saw, we have bigger smoke  
4 and truck, some UN truck, blue truck, actually, inside was  
5 Russian people, Russian soldiers, peaceful people. People  
6 took me out and tried to take me to garrison, which is  
7 military base. I was lucky, second UN car show up with Danish  
8 soldiers. People stop Serbian soldiers and take me garrison,  
9 because this guy, probably officer, told me, "We can't mess  
10 with -- only march." I thought -- "We separate nobody."

11 Then, but we had to leave. Serbian people took me in  
12 Cardak. I was shot. I start, you know, limping in my leg.  
13 Maybe, I don't know, it was because I was shot, people started  
14 hitting me, punching me.

15 Q I'm going to ask you to answer in Bosnian at this point  
16 so that we can hear more clearly what you're describing  
17 happened to you.

18 A (In English) Okay. I'm sorry. Because --

19 Q It's okay.

20 A (In English) -- the emotions there.

21 Q You were limping, why?

22 A (Through interpreter) I was shot in my leg. (English)  
23 I was behind car probably 20 minutes. (Through interpreter)  
24 The Russian peacekeepers arrived at that time and they wanted  
25 to take me in their protection. And then at the same time,

Sipic - Direct

1 the Danish peacekeepers were there at the same time. And I  
2 was hoping that they are going to be able to protect me, but  
3 then they said, "We cannot really get involved in their  
4 dispute." Both vehicles had to leave.

5 And then the Serbian people, about four or five of them,  
6 came with the guns and the rifles. (English) They take me,  
7 they start kicking me, punch me. (Through interpreter) They  
8 took me, they started kicking me and punching me. They  
9 handcuffed me and they put me in some basement.

10 A few minutes later, there was a man who was a commander  
11 of militia in Cardak. And then a few seconds later  
12 Dr. Stajcic arrived, who I personally knew. And then, I will  
13 never forget that moment, even though he was a doctor, wearing  
14 a white coat, and he had his name on it, he took the rifle  
15 gun -- (In English) it was AK-47, pushed in my face, he tried  
16 pushing me to wall. (Through interpreter) He took AK-47 and  
17 put in my face and pushed me to the wall.

18 In Cardak, they had a radio station, so they knew that I  
19 was there already. Commander wanted me alive because they  
20 knew who I was. They already had my identification, and he  
21 knew where I was working at the time. And that situation that  
22 they wanted me alive is what probably saved my life, because  
23 they tied my hands, they put me in the basement, where I was  
24 for -- sitting for about three days without any food, any  
25 water.

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1 Q What happened after those three days?

2 A (Through interpreter) I learned later, a couple of days  
3 after that, some volunteers from Croatia came to Cardak to  
4 release or help the people.

5 There was big gunfire that was very intense on the  
6 outskirts of Cardak, and that scared the Serb groups that were  
7 in there, and they left, they retreated. And they were  
8 planning to cross the river and to save themselves by going to  
9 their side, military side. And someone took me out of the  
10 basement, and they took me with them because that's where they  
11 wanted me.

12 I saw also a Serbian man who was very tall, and he was  
13 injured, and he had bandages all over his chest and his  
14 stomach. (In English) He sit down, he can't walk. (Through  
15 interpreter) He was sitting down. He couldn't walk because  
16 he lost too much blood. The man who was escorting me asked me  
17 to carry him. Myself and another man, we were taking him  
18 through many different roads.

19 Maybe 30 minutes later, after we crossed the river and  
20 went through some roads, we came to the Serbian station,  
21 military station.

22 When we arrived there, the Croatian artillery started  
23 bombing. When that happened, the commander said their forces  
24 should take me to Banja Luka, which is the biggest town -- or  
25 the main town in Republic of Serbia, Republika Srpska. And

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1 that was the political and military force at the time.

2 I spent four or five days in Banja Luka, under  
3 investigation. No one gave me any medical help. I did not  
4 eat, I did not drink. If the police would appear, anyone from  
5 them, all they would want to do is to kill you, strangle you,  
6 cut your throat.

7 A few days after Banja Luka, they transferred me to  
8 prison camp in Manjaca. There, there was several thousand of  
9 imprisoned people from Bosnia, and Croatians.

10 I apologize, I forgot something. While I was in Banja  
11 Luka, the Red Cross came and they registered me.

12 THE INTERPRETER: I have to just clarify for the  
13 Court, I was making sure that I have the month and the date  
14 correct, because we do it the other way around over there.

15 A (Through interpreter) So on June 6th, I was released  
16 after being in the prison camp for just a little bit less than  
17 two months.

18 And this is the picture that one of the journalists took  
19 and wrote the article. This is how I looked on June 9th,  
20 after not being shaved for two months, without food or drink.  
21 In less than two months, I lost 25 pounds.

22 BY MS. SPENCE:

23 Q Let me ask you, the people that beat you and took you  
24 into the home in Cardak and then carried you off to Banja  
25 Luka, were they armed?

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1 A (In English) Yes, ma'am.

2 Q What kind of weapons?

3 A (In English) AK-47.

4 Q Were they wearing any uniforms?

5 A (In English) No, ma'am.

6 Q Civilian clothes?

7 A (In English) Civilian.

8 MS. SPENCE: That's all the questions I have.

9 THE COURT: All right. Thank you, Ms. Spence.

10 Mr. Heaphy?

11 MR. HEAPHY: I don't have any questions. Thank you,  
12 Your Honor.

13 THE COURT: Thank you, sir, very much for coming.

14 MS. SPENCE: Your Honor, I'm going to have some video  
15 with the next witness, and I would ask for a little bit of  
16 time to get it set up.

17 THE COURT: All right. Well, it's 12:45. Do y'all  
18 want to take a break until about 2:00 o'clock?

19 How much more do you have, Ms. Spence?

20 MS. SPENCE: Not a lot. Just him and then  
21 Mr. Nezirovic.

22 THE COURT: And are you going to have any rebuttal,  
23 Mr. Heaphy?

24 MR. HEAPHY: No.

25 THE COURT: How long -- well, why don't we take a

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1 break until 2:00 o'clock, and then we'll come back and hear  
2 the last few witnesses and then hear argument. Does that  
3 work?

4 MS. SPENCE: Yes.

5 THE COURT: We'll stand in recess until 2:00.

6 (Recess taken from 12:45 p.m. until 2:04 p.m.)

7 THE COURT: All right. We are back on the record.

8 Let the record reflect the government is present  
9 again with its counsel. The defendant is present with his  
10 counsel as well.

11 After we broke, and before we went to lunch, I met  
12 with counsel and we talked about a couple of evidentiary  
13 issues. Let me summarize those, and then, Ms. Spence,  
14 Mr. Heaphy, I'll let you-all put anything else on the record  
15 that we need to put on.

16 The government moved in limine to exclude evidence of  
17 videotape of the bombing and results of the war that had  
18 occurred, specifically in the Derventa area, and I heard  
19 argument on that from both counsel. And I made the ruling  
20 that the testimony of a witness that would verify or  
21 authenticate videotape of the results of bombing in Derventa,  
22 specifically in April 1992 of churches, mosques, and other  
23 government buildings that it's represented would have been  
24 seen by Mr. Nezirovic, is going to be cumulative.

25 Mr. Nezirovic, as I understand, is going to testify,

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1 and certainly can testify as to what he saw during that time  
2 period. But the videotape itself is cumulative.

3 I will allow the proffer of that testimony, the  
4 proffer of the videotape so that there's a full and complete  
5 record.

6 Also I heard argument to move in limine -- to limit  
7 the testimony of Mr. Nezirovic as to specifically his  
8 knowledge of other atrocities that were occurring in other  
9 prison camps. And I made the ruling that while the political  
10 offense exception does have a subjective component, it's the  
11 subjective component as to his understanding of the  
12 geopolitical events that were going on and the role that he  
13 played in connection with the particular political  
14 organization he was a part of, in this particular case, the  
15 HVO, and their role in the larger political contest.

16 And it's irrelevant and I think goes into areas that  
17 are otherwise excluded in extradition hearings to allow him to  
18 testify specifically as to his knowledge of other atrocities  
19 that are going on, or specifically as to his knowledge of  
20 whether -- I believe it's Dr. Stajcic, if I'm pronouncing that  
21 correctly, would have been considered a combatant versus a  
22 civilian. I believe that that calls into contest part of the  
23 government's evidence that has been proffered, that in this  
24 extradition setting, the defendant does not have the ability  
25 to be able to contest the government's evidence.

Pelesic - Direct

1           So, again, understanding that Mr. Nezirovic will  
2 proffer whatever testimony he wants to make sure the record  
3 has -- so that there is a full and complete record.

4           Mr. Heaphy, does that fully caption everything we  
5 discussed in the back?

6           MR. HEAPHY: Yes, Your Honor, it does.

7           THE COURT: Ms. Spence, does that caption everything?  
8 Do you want to proffer the evidence now or do you  
9 want to do it at the end? It's whatever your preference is.

10          MS. SPENCE: I'll go ahead and do it now, if that's  
11 okay.

12          THE COURT: Okay. Go ahead.

13          MS. SPENCE: I call Mr. Ibrahim Pelesic.

14          THE COURT: Come on up, sir.  
15 Will he need an interpreter?

16          MS. SPENCE: Yes.

17          THE CLERK: Raise your right hand, please.

18          IBRAHIM PELESIC, WITNESS FOR ALMAZ NEZIROVIC, SWORN

19          THE COURT: Sir, I will ask you to state your full  
20 name and spell it, please.

21          THE WITNESS: (In English) My name is Ibrahim  
22 Pelesic. P-E-L-E-S-I-C.

23          THE COURT: All right. And you spelled it exactly  
24 the same way as your son who testified earlier?

25          THE WITNESS: (In English) Yeah.



Pelesic - Direct

1 THE COURT: Thank you very much. Ms. Spence is going  
2 to ask you some questions first.

3 (All responses by the following witness were in English,  
4 without the assistance of an interpreter.)

5 DIRECT EXAMINATION

6 BY MS. SPENCE:

7 Q Good afternoon, sir. Where were you born?

8 A In Derventa.

9 Q And were you living there in 1992?

10 A Yes.

11 Q In what section?

12 A Derventa, Cardak.

13 Q What position did you secure after the hostilities  
14 started in April of 1992?

15 A I was a journalist. I still have my credit, since I was  
16 20 years old.

17 Q And you were working for what company, or what --

18 A A local radio station.

19 Q What was it called?

20 A Radio Derventa.

21 THE REPORTER: I'm sorry?

22 A Radio Derventa.

23 MS. SPENCE: Radio Derventa.

24 A Radio station, a local radio station.

25 BY MS. SPENCE:

Pelesic - Direct

1 Q And what were your job responsibilities in that position?

2 A A journalist job.

3 Q Take photos?

4 A Taking pictures. You're writing for a radio.

5 Q And did you in fact take video of --

6 A I have about 80 hours documents from this war, especially  
7 from this area, but I can't . . . (pause)

8 MS. SPENCE: To make a clear record, I'm going to  
9 have to ask him to identify certain clips. I won't play them  
10 in full. I just need to ask him to identify them.

11 THE COURT: That's fine. And it's my understanding  
12 you will then put those clips into the record later on?

13 MS. SPENCE: The disk, yes.

14 THE COURT: Okay. Very well.

15 (Video is played.)

16 BY MS. SPENCE:

17 Q Can you tell us what that clip shows?

18 A This is Derventa business area bombing from Serbs. They  
19 are mainly factories in Derventa at this time. About 6-,  
20 7,000 people work there. They really destroyed everything for  
21 things they did, mosques, church, and business area.

22 THE COURT: And what we'll do is, that will be marked  
23 as the first video clip. Do you want to identify those on  
24 the --

25 MS. SPENCE: I guess I need to, yes. I can't see.

Pelesic - Direct

1 May I approach?

2 BY MS. SPENCE:

3 Q Okay. The first one that you identified as showing the  
4 bombing of Derventa --

5 A Yes, business area of Derventa.

6 Q -- is the file named NewClip1.MP4.

7 THE COURT: And they all have the MP4 extension; is  
8 that right?

9 MS. SPENCE: Yes, they do.

10 THE COURT: So you can identify the file name.

11 BY MS. SPENCE:

12 Q This file is 145201. And I'll try again and get you to  
13 tell me what it shows.

14 A This is Muslim mosque. It was really destroyed. And  
15 they destroy all Muslim mosques and Catholic church in this  
16 area, in Derventa, all of them. Only Orthodox church at this  
17 time was without any damage.

18 Q And what is this?

19 A That's Catholic church.

20 Q A Catholic church?

21 A Yes, they destroyed.

22 MS. SPENCE: And that file identified as the Catholic  
23 church is 259314.

24 (Video is played.)

25 A That's Catholic church too. They are downtown of

Pelesic - Direct

1 Derventa.

2 BY MS. SPENCE:

3 Q Is it the same Catholic church or a different one?

4 A It's different church.

5 MS. SPENCE: And that is file 415466.

6 (Video is played.)

7 BY MS. SPENCE:

8 A That's mosque, Muslims mosque, in downtown Derventa,  
9 destroyed.

10 Q Is it the same mosque that we saw?

11 A Different.

12 Q Different mosque?

13 A They are all different. And in Derventa, we had,  
14 downtown, three Muslims mosque, and one Catholic church. They  
15 are destroyed, all of them.

16 Q 728750 is the mosque you just identified.

17 (Video is played.)

18 A Muslim mosque too.

19 BY MS. SPENCE:

20 Q And that's a different one?

21 A Yeah.

22 MS. SPENCE: And that is 935953. I'm sorry for being  
23 blind, Judge.

24 THE COURT: I have no better luck.

25 A That's Catholic church. It's old, about 300 years, and

Pelesic - Direct

1 we had there a lot of our records. They never destroyed  
2 something with such history, but they destroy this. After I  
3 took this pictures, two days later, they destroy everything,  
4 the whole church. That was that damage, but two days later  
5 they did damage -- destroyed it.

6 BY MS. SPENCE:

7 Q And both that day and the two days later are shown on  
8 this clip?

9 A Two days, yeah.

10 THE COURT: Identify that.

11 MS. SPENCE: This clip is 12481337.

12 BY MS. SPENCE:

13 Q And you took these video clips?

14 A Yes. Originally I did.

15 Q Do you know from reviewing the films last night  
16 approximately what date these were taken?

17 A It's all end of May and the beginning of -- end of April  
18 and the beginning -- well, April and May, these two months.  
19 It's very difficult. Some of these pictures have a date,  
20 original date. But you really didn't show all of the tape, as  
21 you can see.

22 THE COURT: And that's in 1992?

23 THE WITNESS: Yes, 1992.

24 BY MS. SPENCE:

25 Q Since I know we looked at these clips last night, if I

Pelesic - Direct

1 can refresh your memory, do you recall one of them, so I don't  
2 have to show the whole film, was dated April 20th, '92?

3 A I can't tell you the date, the 27th. You know, some of  
4 these tapes have date originally on the tape.

5 Q But the date on there is accurate?

6 A But I can't tell you now, watching, if it was 19 or 18  
7 April. But it's April and May 1992.

8 Q But the dates reflected in the video, the one that shows  
9 the date stamp, is accurate?

10 A Yes.

11 Q And where was that building located?

12 A That's really Orthodox church, some kind of institution.  
13 But they accidently -- because next to this building was a  
14 radio station where I worked, and they had a plan to destroy a  
15 radio station. And every time when we start with program,  
16 they start with bombing, because we always said something  
17 against, for, against political and everything. And then they  
18 try to destroy radio station. But accidently they destroyed  
19 their own, own institution, something like that. I don't  
20 know, high institution, higher people there. It was accident.  
21 It was nothing about Catholics or -- that's Orthodox.

22 MS. SPENCE: And that's 14051447 for the record.

23 THE COURT: All right.

24 MS. SPENCE: All right. Thank you. I don't have any  
25 other questions.

Nezrovic - Direct

1 And I would offer to lodge this disk with the Court  
2 that has the video clips.

3 THE COURT: It will be defense -- I will make it  
4 Exhibit A, since it's a proffered exhibit and it has been  
5 excluded.

6 (Defense Exhibit A was marked for identification.)

7 THE COURT: Do you have any questions, Mr. Heaphy?

8 MR. HEAPHY: No. Thank you.

9 THE COURT: Thank you very much. You may step down.  
10 All right, Ms. Spence.

11 MS. SPENCE: Call Mr. Almaz Nezirovic.

12 THE COURT: Come on up here and stand and be sworn,  
13 sir.

14 THE CLERK: Raise your right hand, please.

15 ALMAZ NEZIROVIC, WITNESS FOR ALMAZ NEZIROVIC, SWORN

16 DIRECT EXAMINATION

17 BY MS. SPENCE:

18 Q Good afternoon. Would you state your name for the  
19 record, and spell it.

20 A (In English) A-L-M-A-Z, N-E-Z-R-O-V-I-C. Almaz  
21 Nezirovic.

22 Q Where were you born?

23 A (In English) I am born in a city named Derventa,  
24 August 14, 1959.

25 Q And raised in Derventa?

Nezrovic - Direct

1 A (In English) Yes.

2 Q What is your ethnic background?

3 A (In English) My ethnic background is -- I am like -- I  
4 was born like a Muslim, but I'm not a very religious man. I  
5 am, like, I don't have much time for religion. But I am born  
6 like a Muslim.

7 Q And are you married?

8 A (In English) Yeah, I'm married.

9 Q And what is the ethnic background of your wife?

10 A (In English) My wife is -- Bosnia is a specific country  
11 for a mix of people, you know, between nation and -- my wife's  
12 father is Catholic. The mother of my wife is Orthodox. That  
13 means mix, from two religions.

14 Q So in terms of the nationalists, that would be half Serb  
15 and half Croatian?

16 A (In English) Yes. Yes. She's like -- if you call that  
17 mix.

18 Q The Bosnia you grew up in didn't care about that, did  
19 they?

20 A (In English) No, that's why I say, that's something  
21 specific to Bosnia, marriage between two religions was never  
22 ever a problem. And my father never teach me something like  
23 that. And I'm pretty much sure the father and mother of my  
24 wife has never teached my wife something like that.

25 Q Where did you work in Derventa before the war broke out?



Nezrovic - Direct

1 A (In English) I worked for the metal industry, like we  
2 made some pipe.

3 Q And you knew there was war in Croatia?

4 A (In English) Yeah.

5 Q Did you think that there was going to be a war in Bosnia?

6 A (In English) Local TV showed what's going on in Croatia,  
7 what's going on before Croatia, Slovenia. Pretty much, you  
8 know, people is confused and scared. And, you know, I see  
9 some bad things on TV, and I was like, myself, very afraid  
10 what was going to happen to me and what was going to happen to  
11 my family.

12 Q Before the actual hostilities came to Derventa, did you  
13 think they were going to come to Derventa?

14 A (In English) You know, I listen -- I listen to my  
15 father, and he just don't believe something like that. And I  
16 agree at the time, you know, because we would never do  
17 anything to nobody, and I don't see any reason for somebody  
18 attack me with no reason. And I was like halfway prepared for  
19 something bad and halfway not.

20 Q When did the violence start, the bombing?

21 A (In English) My memory say like the beginning -- no, the  
22 end of March I heard bombing. Then that was louder and louder  
23 for everybody on April, through April.

24 Q And then you really became concerned?

25 A (In English) Yeah.

Nezrovic - Direct

1 Q What was the HVO?

2 A (In English) HVO, that's Croatian military forces.  
3 That's originally by Bosnian/Croatian, or Bosnian Catholic.

4 Q And what was the local defense in your area in 1992?

5 A (In English) 1992, that's like people is -- that moment  
6 is a little bit divided. And, anyway, the population of  
7 Muslim people is about 7 percent in Derventa. And we are  
8 organized, but -- like, Bosnian army. But we don't have the  
9 logistic support from anybody from the HVO, and that was  
10 reason why I joined the HVO. I joined -- that moment I joined  
11 any army which can defend me and my family; it doesn't matter  
12 who and what, you know.

13 I never ever forget it, the first day of war. I never  
14 ever forget it. I laid with my wife and my son in the living  
15 room, laid on couch, and I heard grenades and shooting and  
16 everything. I never ever forget about that, to today.

17 Q And why did you choose the military police and the HVO to  
18 join?

19 A (In English) Because no other -- any other military  
20 force than HVO -- a little group of Bosnian army, like the  
21 one -- I don't know exactly to say, we called it battalion.

22 THE INTERPRETER: Battalion.

23 A And I don't have any other option for defend yourself.  
24 That's why I choose HVO.

25 BY MS. SPENCE:

Nezrovic - Direct

1 Q And were you assigned to the Rabic camp?

2 A (In English) Yeah. That was like something like --  
3 people leaving at that time were military and civilian in  
4 Derventa. They give me -- that position, I have it because  
5 they tried to give me a little pause because I was 30 day on  
6 first front line.

7 Q I'm going to have to ask you to speak in Bosnian and  
8 translate, because I'm having a hard time understanding.

9 A (Through interpreter) Okay. This was a kind of reward  
10 for me because I spent previously 30 days on the front line.  
11 (In English) And I was a short time period with military  
12 police.

13 Q When did you join the HVO?

14 A (In English) In April. I don't know the date, you know.

15 Q I understand.

16 Now, when you were assigned to the Rabic facility, what  
17 was your understanding of who was being detained there?

18 A (In English) I heard from Rabic people which more  
19 witnessing that -- everything was happening.

20 THE COURT: Get him to speak in Bosnian, because I'm  
21 having a hard time understanding as well.

22 A (Through interpreter) From the stories of others,  
23 because I couldn't know that firsthand, because I was already  
24 spending time on the front line, I heard that people from the  
25 part of the town called Cardak are detained there.

Nezrovic - Direct

1 BY MS. SPENCE:

2 Q And did you understand them to be combatants or  
3 civilians?

4 A (In English) From my opinion, that's not civilian,  
5 that's very, very good army soldiers. And that's what I know.

6 Q And what was your job as a guard?

7 A (In English) Just keeping the people locked up, you  
8 know.

9 Q And why did you want to keep them locked up?

10 A (In English) Because -- because the people attack whole  
11 city, and attack me, my friend, my neighbor, attack everybody.

12 MS. SPENCE: I think that's the end of my questions  
13 for the stuff that the Court has ruled would be okay to ask.  
14 I would now like to proffer the remaining testimony.

15 THE COURT: Do you want to cross-examine first,  
16 Mr. Heaphy?

17 MR. HEAPHY: Just one second. No, thank you, Your  
18 Honor.

19 THE COURT: All right. Go ahead and proffer anything  
20 else.

21 BY MS. SPENCE:

22 Q Before you joined the HVO, had you seen some of the  
23 destruction in Derventa?

24 THE COURT: I didn't -- let me back up. I didn't  
25 exclude any testimony that he could testify to as to what he's

Nezrovic - Direct

1 aware of with respect to the conflict. What I excluded was  
2 the fact that he couldn't testify about being aware of other  
3 atrocities going on in other camps.

4 MS. SPENCE: Okay. Then I have a few more questions.

5 THE COURT: All right.

6 BY MS. SPENCE:

7 Q Before joining the HVO, what damage did you see in  
8 Derventa?

9 A (In English) Damage to houses, damage to buildings,  
10 everywhere. You know, you look west or east, everywhere, just  
11 damage to houses, damage building, school, hospital,  
12 everything.

13 Q And --

14 A (In English) One time -- one time I count when I --  
15 during -- when I was at the Rabic, I sitting in one chair and  
16 count about, over 2,000 grenades for one day. And I stopped,  
17 after 200, I stopped counting. I believe that that day was  
18 1,000 grenades from where I sit.

19 Q And what about sniper fire?

20 A (In English) Sniper fire. First civilian in Derventa is  
21 dead of sniper fire. That was just one old man who was trying  
22 to go to bank to take his pension, you know, and sniper shoot  
23 him to death.

24 Q Did you see anybody injured or killed by sniper fire up  
25 close?

Nezrovic - Direct

1 A (In English) Yeah, a couple of times. On front line.  
2 And, you know, when I said "front line," front line, when you  
3 have fighting in cities, you never know who is behind you, who  
4 is left, who is right. It's like an imaginary front line.  
5 It's not real front line. Two armies, you know, divided by a  
6 river or something, you know, that's very dangerous, and --  
7 because you never know who is left, who is right, who is, you  
8 know, and I -- I see a couple people who is dead from sniper.

9 Q And when was the other time?

10 A (In English) The other time is when my friend dying from  
11 sniper. That was in April, I think April 24. That's -- I  
12 remember that day because that was a very good friend to me,  
13 and he was younger than me, maybe ten years.

14 Q So how old was he?

15 A (In English) He was about 19. 19, 18, something like  
16 that. I was at that time 33 years.

17 Q And where were you when he was shot?

18 A (In English) I was in car. He saw the guy, and he  
19 trying run out in the street, and he was late for a little  
20 bit, and just, sniper just -- I don't see exactly from where  
21 it came. I just see him one shot and he was down.

22 Q Did he live?

23 A (In English) No. He lived maybe, maybe about 30  
24 seconds, something like that. I never forget that, because  
25 both sides he have a big hole like that, because that was a

Nezrovic - Direct

1 special sniper bullet. And behind him, he left wife which is  
2 Serbian, and she was pregnant, which means baby never see his  
3 father.

4 MS. SPENCE: Now, before I move into other questions?

5 THE COURT: Does that prompt any cross-examination,  
6 Mr. Heaphy?

7 MR. HEAPHY: No. Thank you.

8 THE COURT: All right. So this is your proffer?

9 MS. SPENCE: This is my proffer.

10 BY MS. SPENCE:

11 Q Did you also hear on the news and from acquaintances who  
12 lived elsewhere in Bosnia and in Croatia about crimes that  
13 were being committed by Serb nationalists?

14 A (In English) Yeah. That's on TV, on the radio, you can  
15 hear everything what's going on at that time, you know.

16 Q Can you be specific in describing what kind of crimes you  
17 were hearing about?

18 A (In English) Like cleansing territory, then killing  
19 other people, civilians, specifically civilian, and put them  
20 in jail. Then after that jail, they put them in concentration  
21 camp. Then we see on TV dead bodies everywhere. Each city  
22 have a story, and these people never ever forget it.

23 Q What about women?

24 A (In English) Women, that's one of the saddest story of  
25 Bosnia, because I really did not understand why is it

Nezrovic - Direct

1 happening. But I know what's happening. They, you know,  
2 opened some houses -- they find every time the biggest  
3 building and bring some young Muslim or Catholic girl or  
4 woman, and -- I don't want to say what happened next.  
5 Everybody knows what it is: rape them.

6 I know of one case. First of all, they shot by -- a  
7 women, then take a knife and dig out baby from stomach, and  
8 let her to watch how baby -- how baby dying, and then kill  
9 her.

10 Q And did hearing about all these things influence your  
11 decision to join the HVO?

12 A (In English) You know, I already said I never ever  
13 forget it, that first day, and including the other days during  
14 the war, I never forget that. And I was for first time in my  
15 life real scared, and that's something which nobody can forget  
16 it, because -- because I already know other city people are  
17 killed, and I don't have any weapon for defense yourself. At  
18 that time, I think like that, I fear for myself. I'm thinking  
19 about my wife and my son, I don't have nothing to defense my  
20 wife or my son. It was very painful. It was very painful.

21 MS. SPENCE: That's all I have.

22 THE COURT: Thank you.

23 Anything further, Mr. Heaphy?

24 MR. HEAPHY: No. Thank you.

25 THE COURT: All right, Mr. Nezirovic, thank you very



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1 much. You may step down.

2 All right, Ms. Spence, any additional evidence?

3 MS. SPENCE: I would offer, Your Honor, as Defense  
4 Exhibit 2, translation of the letter dated March 11, 1993,  
5 from the United Nations High Commissioner for Refugees,  
6 placing him under the protection of the United Nations High  
7 Commissioner for Refugees.

8 THE COURT: Any objection, Mr. Heaphy?

9 MR. HEAPHY: No, sir, Your Honor.

10 THE COURT: All right, I'll admit it as Defense  
11 Exhibit Number 2.

12 (Defendant's Exhibit Number 2 was marked and received.)

13 THE COURT: Anything else, Ms. Spence?

14 MS. SPENCE: That's the case, Your Honor.

15 THE COURT: All right. Mr. Heaphy, any additional  
16 evidence on behalf of the government?

17 MR. HEAPHY: No, Your Honor.

18 THE COURT: All right. And just to make the record  
19 clear, also considered part of the record are all the exhibits  
20 that were attached to the government's initial brief, as well  
21 as what was attached -- what was filed yesterday, as well as  
22 the attachments to the defendant's brief that was filed on  
23 Wednesday. Those are considered part of the record.

24 Is there any objection to any of those documents?

25 MR. HEAPHY: No, Your Honor. But I will say that we

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1 do have the actual certified version of the '93 document. And  
2 I may in the interim, before we meet again, request some  
3 clarification from the Bosnian government about the import of  
4 that document, more information about the Bosnian process.

5 THE COURT: All right. What I'll do is, I'll leave  
6 the record open for purposes of supplementing it for that  
7 purpose, and then any additional evidence the defendant may  
8 want to submit -- Mr. Nezirovic may want to offer as to that  
9 particular document, its import and its effect as of 1993.

10 What we'll do is, other than that, the record will be  
11 closed.

12 If the transcript is ordered, and it's ordered by one  
13 of y'all, Ms. Webb can get paid. So the transcript can be  
14 ordered.

15 Then what we'll do is set up a briefing schedule that  
16 we talked about back in chambers. It springs off of when the  
17 transcript gets filed, and I can talk to you-all about getting  
18 that ordered as well.

19 And then once we get the transcript in, then what  
20 we'll do is, I'll send out an e-mail and schedule argument on  
21 the legal issues.

22 All right. Anything else, Mr. Heaphy?

23 MR. HEAPHY: No. Thank you, Your Honor.

24 THE COURT: Ms. Spence, anything else?

25 MS. SPENCE: Not today, Your Honor. The Court will

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1 stand in recess. If I can just see you-all back here.

2 (Court recessed at 2:04 p.m.)

3

4 CERTIFICATE

5 I, Judy K. Webb, certify that the foregoing is a  
6 correct transcript from the record of proceedings in  
7 the above-entitled matter.

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9 /s/ Judy K. Webb Date: 9/21/2012

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